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

WHO: Sponsored by the Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: Tuesday, May 22, 2001 at 9:00 a.m.
WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

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Presidential Documents

Title 3—

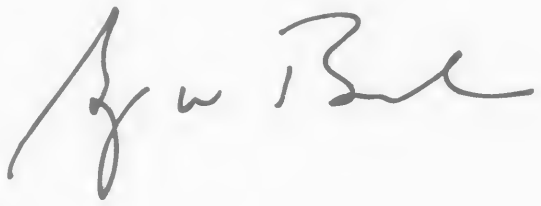
The President

Notice of May 15, 2001

Continuation of Emergency With Respect to Burma

On May 20, 1997, the President issued Executive Order 13047, certifying to the Congress under section 570(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208), that the Government of Burma has committed large-scale repression of the democratic opposition in Burma after September 30, 1996, thereby invoking the prohibition on new investment in Burma by United States persons, contained in that section. The President also declared a national emergency to deal with the threat posed to the national security and foreign policy of the United States by the actions and policies of the Government of Burma, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)).

The national emergency declared on May 20, 1997, must continue beyond May 20, 2001, because the Government of Burma continues its policies of committing large-scale repression of the democratic opposition in Burma, threatening the national security and foreign policy of the United States. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Burma. This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
May 15, 2001.

[FR Doc. 01–12598
Filed 5–16–01; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 245

[INS No. 2122–01]

RIN 1115–AG17

Adjustment of Status for Certain Syrian Nationals Granted Asylum in the United States

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: On October 27, 2000, the President signed into law Public Law 106–378, providing for the adjustment of status to that of lawful permanent resident for certain nationals of Syria. This interim rule discusses the eligibility requirements and sets forth application procedures for persons wishing to adjust status on the basis of Public Law 106–378. This provision does not affect an alien's eligibility for adjustment of status under section 209 of the Immigration and Nationality Act (Act) based on a grant of asylum.

DATES: *Effective date.* This rule is effective May 17, 2001.

Comment date. Comments must be submitted on or before July 16, 2001.

ADDRESSES: Please submit written comments to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I street NW., Room 4034, Washington, DC 20536, or via fax to (202) 305–0143. To ensure proper handling, please reference INS number 2122–01 on your correspondence. Comments are available for public inspection at this location by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Michael Valverde, Residence and Status Services Branch, Adjudications, Immigration and Naturalization Service, Room 3040, 425 I Street, NW., Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Is Public Law 106–378?

On October 27, 2000, former President Clinton signed Public Law 106–378, providing the Attorney General with the authority to adjust status to that of lawful permanent resident for an estimated 2,000 eligible Syrian nationals who were granted asylum in the United States. The stated objective for this law is to provide relief for a group of Jewish Syrian nationals who were allowed to depart Syria and enter the United States after December 31, 1991, and who were subsequently granted asylum in the United States.

Under section 209 of the Immigration and Nationality Act (Act), all aliens granted asylum are eligible to apply for adjustment of status 1 year after being granted asylum. Section 209 of the Act also limits the number of asylee-based adjustments to 10,000 per year. Since in recent years the Immigration and Naturalization Service (Service) has granted asylum to more than 10,000 aliens each year, asylees face a substantial wait until they can adjust status. Public Law 106–378 is an adjustment provision independent of section 209 of the Act, and therefore provides eligible Syrian nationals relief from the wait caused by the annual limit on the number of aslyees who can adjust status.

Who Is Eligible To Adjust Status to That of Lawful Permanent Resident Under Public Law 106–378?

(1) In order to be eligible for adjustment of status under this law, the principal alien must:

- Be a Jewish national of Syria;
- Have arrived in the United States after December 31, 1991, after being permitted by the Syrian government to depart from Syria; and,
- Be physically present in the United States at the time of filing the application to adjust status.

(2) In addition, the alien must:

- Apply for adjustment of status under Public Law 106–378 no later than October 26, 2001, or have applied for adjustment of status under another provision of the Act and request that the basis of that application be changed to Public Law 106–378;
- Have been physically present in the United States for at least 1 year after being granted asylum;
- Not be firmly resettled in any foreign country; and
- Be admissible as an immigrant under the Act at the time of examination for adjustment of status.

The spouse, child, or unmarried son or daughter of an eligible Syrian national may also adjust status under Public Law 106–378 provided he or she meets the requirements listed under section (2) above.

What Ground of Inadmissibility Does Not Apply When Adjusting Status Under Public Law 106–378?

While Public Law 106–378 requires that aliens applying to adjust status under this provision must be admissible as an immigrant, the Service will not apply the ground of inadmissibility found at section 212(a)(4) of the Act relating to public charge to applicants for adjustment of status under Public Law 106–378.

Public Law 106–378 affords its beneficiaries the opportunity to adjust their status from asylee to lawful permanent resident without regard to the normal numerical limits on such adjustments.

Pre-existing law provides that the ground of inadmissibility found at section 212(a)(4) of the Act relating to public charge is inapplicable to an alien seeking adjustment of status from that of a refugee or asylee. Accordingly, the Service has determined that it would be inconsistent with the purpose of this law to enforce this ground of inadmissibility against this small (2,000) groups of aliens where, given the short application period, Congress has directed that "the Attorney General should act without further delay to grant [them] lawful permanent resident status."

Indeed, granting lawful permanent resident status sooner, rather than later, to an asylee who might otherwise be found to be a public charge helps the country as a whole by granting them an immigration status that expands their employment potential. Such considerations have been taken into account previously when interpreting the impact of section 212(a)(4) of the Act on an alien's eligibility for other

special adjustment programs. *See Matter of Mesa* 12 I&N Dec. 432 (BIA 1967).

What Grounds of Inadmissibility May Be Waived When Adjusting Status Under Public Law 106–378?

Applicants may apply for the waivers of other grounds of inadmissibility found at section 212(h), (i), and (k) of the Act, to the extent they are eligible.

How Do Eligibility Syrian Nationals File for Adjustment of Status Under Public Law 106–378?

Aliens With Applications for Adjustment of Status Already Pending

Filed Before October 27, 200

Some eligible Syrian nationals may have already filed a Form I–485, Application to Register Permanent Residence or Adjust Status, prior to October 27, 2000, when Public Law 106–378 was enacted. If that application remains pending, such an eligible Syrian national has the option of (1) requesting that the basis for that pending Form I–485 be changed to Public Law 106–378, at any time or (2) submitting a new Form I–485 based on Public Law 106–378 prior to October 26, 2001, that would be processed independently of the other Form I–485 on file.

Any new application for adjustment based on Public Law 106–378 is subject to the statutory deadline of October 2, 2001. However, according to the language of § 2(a)(1) of Public Law 106–378, as interpreted by the Services, the statutory deadline does not apply if the alien had applied for adjustment of status, before the date of enactment of Public Law 106–378, under any other provision of the INA.

Filed On or After October 27, 2000

If an eligible Syrian national filed Form I+485 under another provision of law on or after October 27, 2000, he or she has the same 2 options of requesting that the basis for that pending Form I–485 be changed to Public Law 106–378, or submitting a new Form I–485 based on Public Law 106–378. However, to remain eligible for adjustment of status under Public Law 106–378, the alien must make the request or file the new application on or before October 26, 2001.

Requesting That the Basis of the Pending Form I–485 Be Changed to Public Law 106–378

An eligible Syrian national requesting that the basis of his or her pending Form I–485 be changed to Public Law 106–378 must submit this request in writing to the Nebraska Service Center at the address listed below. The request must state that the applicant wants to change the basis of his or her Form I–485 that is currently pending with a Service office to Public Law 106–378. The request must state at which Service office that adjustment application is pending. In addition, the request must be signed by the applicant and mailed to: U.S. Immigration and Naturalization Service, Nebraska Service Center, P.O. Box 87485, Lincoln NE 68501–7485.

The applicant should clearly annotate "*SYRIAN ASYLEE P.L. 106–378*" on the envelope to identify the correspondence. It is important to note that if an applicant makes this request and is found to be ineligible under Public Law 106–378, but appears eligible for adjustment under another section of the Act, the Service will provide the applicant with notice of this fact and also that the Form I–485 will resume pending for adjustment under the original provision of the Act.

New Applications for Adjustment of Status

(1) Syrian nationals eligible to apply for adjustment of status under Public Law 106–378 should file Form I–485 with the: U.S. Immigration and Naturalization Service, Nebraska Service Center, P.O. Box 87485, Lincoln NE 68501–7485.

(2) Applicants should clearly mark "*SYRIAN ASYLEE P.L. 106–378*" on the outside of their envelope.

(3) All applicants must submit all additional documents required by Service regulations and the instructions on Form I–485. On Form I–485, Part 2, question "h", applicants must write "*SYRIAN ASYLEE—P.L. 106–378*" to indicate that they are applying based on this provision.

(4) Applicants younger than 14 years old must submit the required filing fee, currently $160, or request that the fee be waived.

(5) Applicants 14 years and older must submit the associated filing fee, currently $220, or request that the fee be waived pursuant to 8 CFR 103.7(c). In addition, applicants 14 years and older must submit a $25 fingerprinting fee.

(6) The application must be physically received by the Service Center prior to close-of-business on October 26, 2001. Mailing or having the application post-marked prior to October 26, 2001, is not sufficient proof of filing.

Is There a Limit to the Number of Adjustments That May Be Granted Under Public Law 106–378?

Yes, the Service may only grant adjustment of status under Public Law 106–378 to 2,000 aliens. Adjustments of both principals and dependents count towards this total. The Service has no discretion in increasing this number. Although the Service does not anticipate that there are more than 2,000 aliens eligible, applicants should apply early.

What Is the Benefit of Changing a Pending Asylee-Based Form I–485 to Public Law 106–378?

An alien who changes the basis of his or her Form I–485 from section 209 of the Act (asylee-based only) to Public Law 106–378 is no longer subject to the 10,000 annual limit requirement of section 209(b) of the Act on the adjustment of status of aliens granted asylum. An alien adjustment status under Public Law 106–378 may have his or her status adjustment immediately, as long as the 2,000 numerical limitation has not been met.

Since generally, asylum is granted to more than 10,000 aliens annually, a queue develops and aliens must wait until a space in a future year's annual limit is available. The queue is chronologically based on the date of the asylum grant. (For example, in FY 2001, the Service was processing asylum-related adjusted applications filed prior to January 6, 1998.)

When Is the Deadline for Submitting an Application for Adjustment Under Public Law 106–378?

All new Forms I–485 based upon Public Law 106–378 must be received by the Nebraska Service Center by close-of-business on October 26, 2001. New applications received by the Service Center after that day will be rejected. Mailing or having the application post-marked prior to October 26, 2001, is not sufficient proof of filing.

There is no deadline for requests to change the basis of a pending Form I–485 that was filed before Public Law 106–378 was enacted on October 27, 2000. Such requests to change may be submitted until such time as the 2,000 statutory limit on adjustments has been reached. However, requests to change the basis of a pending Form I–485 that was filed on or after October 27, 2000, are subject to the statutory deadline and must be received no later than October 27, 2001.

What Evidence Will Demonstrate That the Applicant Is Eligible for Public Law 106–378?

Since an alien applying for adjustment of status under Public Law 106–378 must have been granted asylum, Service records will contain information relating to the alien's

nationality, religion, date of arrival in the United States, and date asylum was granted. Unless requested by the Service, an alien applying for adjustment of status under Public Law 106–378 does not need to submit evidence to satisfy these requirements.

An alien must demonstrate that the he or she meets the other requirements of Public Law 106–378, specifically that the alien was permitted to depart from Syria by the Syrian Government (principal beneficiaries only), has been physically present in the United States for 1 year after the grant of asylum, and has not firmly resettled in any foreign country. To do so, aliens must submit a copy of the alien's passport, a copy of the applicant's Arrival-Departure Record (Form I–94) or other evidence of inspection and admission or parole into the United States after December 31, 1991.

With respect to evidence of physical presence, the Service is incorporating by reference the existing provision of a different rule, § 245.15(j)(2) of this part. Although the latter section pertains to a different category of aliens, paragraph (j)(2) of that rule sets forth a common approach for demonstrating physical presence in the United States, and provides examples of the kinds of documentation that applicants can submit. Aliens applying for adjustment of status under Public Law 106–378 must submit sufficient documentation to establish that they were physically present in the United States for at least a 1-year period after being granted asylum. It is not necessary that the period of physical presence be a single, unbroken period.

What Date Will Be Recorded as the "Record of Permanent Residence" for Aliens Granted Lawful Permanent Resident Status Under Public Law 106–378?

Upon the approval of an application for adjustment of status under Public Law 106–378, the Service in accordance with section 2(d) of Public Law 106–378 will establish a record of the alien's admission for lawful permanent residence as of the date 1 year before the date of the approval of the application.

Can Applicants for Adjustment of Status Obtain Employment Authorization?

Yes, aliens who have filed Form I–485 based on Public Law 106–378 may apply for employment authorization with the Service. Aliens must file Form I–765, Application for Employment Authorization, with the required application fee, currently $100, or a request for a fee waiver in accordance with 8 CFR 103.7(c). Applications for employment authorization based on a pending Form I–485 filed under Public Law 106–378 must be filed with the Nebraska Service Center.

What Happens if I Submit an Application for Adjustment of Status Under Public Law 106–378 After the Service Has Approved 2,000 Applications?

Although the Service does not anticipate that there are more than 2,000 aliens eligible under Public Law 106–378, if an eligible alien submits his or her application, or request for a change in the basis of an already pending application, after the 2,000 limit for adjustments under Public Law 106–378 has been reached, that application or request and any associated fees or evidence submitted will be returned to the alien. In the case of an alien making a request to change the basis of a currently pending application, his or her application will continue to remain pending with the Service and will be adjudicated based on the law upon which it was filed. If the alien is an asylee who does not yet have an adjustment of status application pending, he or she may be eligible to file for adjustment under section 209 of the Act. Such an alien should follow the procedures at 8 CFR 209.2 to file under section 209 of the Act.

Good Cause Exception

The Service's implementation of this rule as an interim rule with provisions for post-promulgation public comment is based on the "good cause" exceptions found at 5 U.S.C. 533(b)(B), and (d)(3). The immediate implementation of this rule without prior notice and comment is necessary because Public Law 106–378 provided for a 1-year application period which will end on October 26, 2001. Consequently, implementing this regulation upon date of publication is necessary to provide as much time as possible to allow eligible aliens to apply for benefits under Public Law 106–378. Since prior notice and public comments with respect to this rule is impractical and contrary to public interest, there is good cause under 5 U.S.C. 553 to make this rule effective upon publication in the **Federal Register**.

Regulatory Flexibility Act

The Acting Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects certain individual Syrian nationals who were granted asylum in the United States. It does not have an effect on small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section (6)(a)(3)(A).

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

This interim rule does not impose any new reporting or recordkeeping requirements. The information collection requirements contained in this rule were previously approved for use by the Office of Management and Budget (OMB). The OMB control numbers for these collections are contained in 8 CFR 299.5, Display of control numbers.

List of Subjects in CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, part 245 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

1. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255; sec. 202, Pub. L. 105–100, 111 Stat. 2160, 2193; sec. 902, Pub. L. 105–277, 112 Stat. 2681; 8 CFR part 2.

2. Section 245.20 is added to read as follows:

§ 245.20 Adjustment of status of Syrian asylees under Public Law 106–378.

(a) *Eligibility.* An alien is eligible to apply to adjust status under Public Law 106–378 if the alien is:

(1) A Jewish national of Syria;

(2) Arrived in the United States after December 31, 1991, after being permitted by the Syrian Government to depart from Syria;

(3) Is physically present in the United States at the time of filing the application to adjust status;

(4) Applies for adjustment of status no later than October 26, 2001, or has a pending application for adjustment of status under the Act that was filed with the Service before October 27, 2000;

(5) Has been physically present in the United States for at least 1 year after being granted asylum;

(6) Has not firmly resettled in any foreign country; and

(7) Is admissible as an immigrant under the Act at the time of examination for adjustment.

(b) *Qualified family members.* The spouse, child, or unmarried son or daughter of an alien eligible for adjustment under Public Law 105–378 is eligible to apply for adjustment of status under this section if the alien meets the criteria set forth in paragraphs (a)(4) through (a)(7) of this section.

(c) *Grounds not to be applied and waivers.* The grounds of inadmissibility found at section 212(a)(4) of the Act, relating to public charge, and at section 212(a)(7)(A) of the Act, relating to documentation, do not apply to applicants for adjustment of status under Public Law 106–378. Applicants may also request the waivers found at sections 212(h), (i), and (k) of the Act, to the extent they are eligible.

(d) *Application.*—(1) *New applications.* An applicant must submit From I–485, Application to Register Permanent Residence or Adjust Status, along with the appropriate application fee as stated in § 103.7(b)(1) of this chapter, to the Nebraska Service Center. The application must physically be received by the Nebraska Service Center no later than close of business on October 26, 2001. Applicants 14 years of age or older must also submit the fingerprinting service fee provided for in § 103.7(b)(1) of this chapter. Each application filed must be accompanied by two photographs as described in the Form I–485 instructions; a completed Biographic Information Sheet (Form G–325A) if the applicant is between 14 and 79 years of age; and a report of medical examination (Form I–693 and vaccination supplement) as specified in 8 CFR 245.5. On Form I–485, Part 2, question "h", applicants must write *"SYRIAN ASYLEE—P.L. 106–378"* to indicate that they are applying based on this provision.

(2) *Filing of requests to change the basis of a pending Form I–485.*—(i) *Request.* An eligible Syrian national with a Form I–485 that is currently pending with the Service may request that the basis of his or her Form I–485 be changed to Public Law 106–378. The alien must submit this request in writing to the Nebraska Service Center. The request may only be granted if the 2,000 adjustment limit specified in paragraph (i) of this section has not yet been reached. The 2,000 adjustment limit includes both new and pending Form I–485 petitions. The applicant should clearly annotate *"SYRIAN ASYLEE P.L. 106–378"* on the envelope to identify the correspondence.

(ii) *Time limit.* If the Form I–485 was filed before October 27, 2000, there is no time limit for requesting a change of basis for adjustment of status. However, if the Form I–485 was filed on or after October 27, 2001, then the Service must receive the request for change of basis no later than October 27, 2001.

(e) *Evidence.* Applicants must submit evidence that demonstrates they are eligible for adjustment of status under Public Law 106–378. Required evidence includes the following:

(1) A copy of the alien's passport;

(2) A copy of the applicant's Arrival-Departure Record (Form I–94) or other evidence of inspection and admission or parole into the United States after December 31, 1991;

(3) Documentation including, but not limited to, those listed at § 245.15(j)(2) to establish physical presence in the United States for at least 1 year after being granted asylum;

(4) If the applicant is the spouse of a principal alien applying for adjustment, he or she must submit a marriage certificate, if available, or other evidence to demonstrate the marriage; and

(5) If the applicant is the child of a principal alien applying for adjustment of status, he or she must submit a birth certificate, if available, or other evidence to demonstrate the relationship.

(f) *Employment authorization.* Applicants who want to obtain employment authorization based on a pending application for adjustment of status under Public Law 106–378 may submit Form I–765, Application for Employment Authorization, along with the application fee listed in § 103.7(b)(1) of this chapter. If the Service approves the application for employment authorization, the applicant will be issued an employment authorization document.

(g) *Travel while an application to adjust status is pending.* Applicants who wish to travel abroad and re-enter the United States while an application for adjustment of status is pending without being considered to have abandoned that application must obtain advance parole prior to departing the United States. To obtain advance parole, applicants must file Form I–131, Application for a Travel Document, along with the application fee listed in § 103.7(b)(1) of this chapter. If the Service approves Form I–131, the alien will be issued Form I–512, Authorization for the Parole of an Alien into the United States.

(h) *Approval and date of admission as a lawful permanent resident.* When the Service approves an application to adjust status to that of lawful permanent resident based on Public Law 106–378, the applicant will be notified in writing of the Service's decision. In addition, the record of the alien's admission as a lawful permanent resident will be recorded as of the date 1 year before the approval of the application.

(i) *Number of adjustments under Public Law 106–378.* No more than 2,000 aliens may have their status adjusted to that of lawful permanent resident under Public Law 106–378.

(j) *Notice of Denial.*—(1) *General.* When the Service denies an application to adjust status to that of lawful permanent resident based on Public Law 106–378, the applicant will be notified of the decision and the reason for the denial in writing.

(2) *Cases involving requests to change the basis of a pending Form I–485.* If an applicant who requested that a pending Form I–485, be considered under Public Law 106–378, is found to be ineligible under Public Law 106–378, but he or she appears eligible for adjustment under the original section of the Act under which the Form I–485 was filed, the Service will provide the applicant with notice of this fact. Processing the Form I–485 under the original provision of law will resume as appropriate.

(k) *Administrative review.* An alien whose application for adjustment of status under Public Law 106–378 is denied by the Service may not appeal the decision. However, the denial will be without prejudice to the alien's right to renew the application in proceedings under 8 CFR part 240 provided that the 2,000 statutory limit on such adjustments has not yet been reached.

Dated: May 11, 2001.

Kevin D. Rooney,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–12432 Filed 5–16–01; 8:45 am]

BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG70

List of Approved Spent Fuel Storage Casks: VSC–24 Revision; Confirmation of Effective Date

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is confirming the effective date of May 21, 2001, for the direct final rule that appeared in the **Federal Register** of March 6, 2001 (66 FR 13407). This direct final rule amended the NRC's regulations by revising the Pacific Sierra Nuclear Associates (PSNA) VSC–24 listing within the "List of approved spent fuel storage casks" to include Amendment No. 3 to the Certificate of Compliance (CoC).

DATES: The effective date of May 21, 2001 is confirmed for this direct final rule.

ADDRESSES: Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. These same documents may also be viewed and downloaded electronically via the rulemaking website (http://ruleforum.llnl.gov). For information about the interactive rulemaking website, contact Ms. Carol Gallagher (301) 415–5905; e-mail *CAG@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Stan Turel, telephone (301) 415–6234, e-mail, spt@nrc.gov, of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: On March 6, 2001 (66 FR 13407), the NRC published in the **Federal Register** a direct final rule amending its regulations in 10 CFR 72 to revising the Pacific Sierra Nuclear Associates (PSNA) VSC–24 listing within the "List of approved spent fuel storage casks" to include Amendment No. 3 to the Certificate of Compliance (CoC). This amendment changes the Technical Specifications 1.2.1 and 1.2.6 to modify the fuel specifications for Combustion Engineering 16x16 spent fuel stored in the VSC–24 cask system, modifies the text in TS 1.2.7 for accuracy, modifies the text in Certificate Section 2.b. to remove ambiguity, modifies Certificate Section 3 to be consistent with TS 1.1.4, modifies Certificate Section 4 for consistency with TS 1.1.3, and modifies Certificate Section 5 to remove ambiguity. This document confirms the effective date. In the direct final rule, NRC stated that if no significant adverse comments were received, the direct final rule would become final on the date noted above. The NRC did not receive any comments that warranted withdrawal of the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 11th day of May, 2001.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 01–12412 Filed 5–17–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–05–AD; Amendment 39–12232; AD 2001–10–06]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76A, S–76B, and S–76C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) that applies to Sikorsky Aircraft Corporation (Sikorsky) Model S–76A, S–76B, and S–76C helicopters and currently requires, before further flight, performing a fluorescent penetrant inspection (FPI) of the main rotor shaft assembly (shaft). Also, a recurring FPI and visual inspection for a cracked shaft are required by that AD. That AD also requires replacing the shaft with an airworthy shaft before further flight if a crack is found. This amendment requires replacing certain serial numbered shafts with an airworthy shaft before further flight. This amendment is prompted by further investigation and a determination that the inspections can be safely eliminated if certain serial-numbered shafts are removed from service before further flight. The actions specified by this AD are intended to prevent failure of the shaft and subsequent loss of control of the helicopter.

EFFECTIVE DATE: June 21, 2001.

FOR FURTHER INFORMATION CONTACT: Wayne Gaulzetti, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7156, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–23–52, Amendment 39–12095 (66 FR 8507, February 1, 2001), which applies to Sikorsky Model S–76A, S–76B, and S–76C helicopters, was published in the **Federal Register** on March 15, 2001 (66 FR 15062). That action proposed to require, before further flight, replacing each shaft, part number 76351–09030—all dash numbers, serial number B015–00700 through B015–00706, with an airworthy shaft.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No

comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 3 helicopters of U.S. registry would be affected by this AD, that it would take approximately 5 work hours per helicopter to replace the shafts, and that the average labor rate is $60 per work hour. Required parts would cost approximately $19,000 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $57,900.

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 FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–12095 (66 FR 8507, February 1, 2001), and by adding a new airworthiness directive (AD), Amendment 39–12232, to read as follows:

AD 2001–10–06 Sikorsky Aircraft Corporation: Amendment 39–12232. Docket No. 2001–SW–05–AD. Supersedes AD 2000–23–52, Amendment 39–12095, Docket No. 2000–SW–61–AD.

Applicability: Model S–76A, S–76B, and S–76C helicopters with main rotor shaft assembly (shaft), part number 76351–09030-all dash numbers, installed, certificated in any category.

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

Compliance: Required before further flight, unless accomplished previously.

To prevent failure of the shaft and subsequent loss of control of the helicopter:

(a) Replace each affected shaft, serial number B015–00700 through B015–00706, with an airworthy shaft.

Note 2: Sikorsky Alert Service Bulletin No. 76–66–32A (319A), Revision A, dated January 17, 2001, pertains to the subject of this AD.

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

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

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

(d) This amendment becomes effective on June 21, 2001.

Issued in Fort Worth, Texas, on May 10, 2001.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–12336 Filed 5–16–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30248; Amdt. No. 2051]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Available of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendence of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs

Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designed FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only those specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on May 11, 2001.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

FDC Date	State	City	Airport	FDC No.	Subject
03/02/01	CA	Oakland	Metropolitan Oakland Intl	1/2278	NDB Rwy 27R, Amdt 5
04/12/01	SD	Watertown	Watertown Muni	1/3577	ILS Rwy 35, Amdt 10 VOR or GPS Rwy 2
04/16/01	VA	Richmond	Richmond Intl	1/3633	Amdt 5 RNAV (GPS) Rwy 3
04/18/01	WA	Spokane	Spokane Intl	1/3688	Orig
04/26/01	CA	Oakland	Metropolitan Oakland Intl	1/3962	ILS Rwy 27R Amdt 33
04/26/01	CA	Oakland	Metropolitan Oakland Intl	1/3965	ILS Rwy 29 (CAT I, II, III) Amdt 23B
04/26/01	CA	Oakland	Metropolitan Oakland Intl	1/3967	VOR/DME Rwy 29 Orig
04/26/01	CA	Oakland	Metropolitan Oakland Intl	1/3968	VOR/DME Rwy 27L Amdt 11
04/26/01	CA	Hayward	Hayward Executive	1/3969	VOR or GPS–A Amdt 6B
04/26/01	CA	Hayward	Hayward Executive	1/3970	VOR/DME or GPS–B Amdt 1B
04/26/01	CA	Hayward	Hayward Executive	1/3971	LOC/DME Rwy 28L Amdt 1A
04/26/01	CA	Oakland	Metropolitan Oakland Intl	1/3978	ILS Rwy 11 Amdt 4A VOR or GPS Rwy 9R
04/26/01	CA	Oakland	Metropolitan Oakland Intl	1/3980	Amdt 7A

FDC Date	State	City	Airport	FDC No.	Subject
04/30/01	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	1/4048	ILS Rwy 36L, Amdt 6A Converging ILS
04/30/01	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	1/4049	Rwy 36L, Amdt 3C
04/30/01	TX	Mesquite	Mesquite Metro	1/4054	ILS Rwy 17, Amdt 1
04/30/01	TX	Mesquite	Mesquite Metro	1/4056	NDB or GPS Rwy 17, Amdt 5A
04/30/01	TX	Mesquite	Mesquite Metro	1/4057	LOC BC Rwy 35, Amdt 2
04/30/01	HI	Kaunakakai	Molokai	1/4059	VOR or TACAN or GPS–A, Amdt 15A
05/02/01	AR	Carlisle	Carlisle Muni	1/4156	VOR/DME Rwy 9, Amdt 2
05/03/01	OH	Columbus	Rickenbacker Intl	1/4185	HI–ILS Rwy 5R, Amdt 2
05/04/01	CA	Marysville	Yuba County	1/4218	ILS Rwy 14, Amdt 4D
05/07/01	ND	Grand Forks	Grand Forks Intl	1/4257	ILS Rwy 35L, Amdt 11B
05/07/01	WA	Everett	Snohomish County (Paine Field)	1/4272	NDB RWY 16, Amdt 12A
05/07/01	WA	Everett	Snohomish County (Paine Field)	1/4273	GPS Rwy 16R, Orig
05/07/01	WV	Lewisburg	Greenbrier Valley	1/4292	ILS Rwy 4, Amdt 9
05/07/01	ND	Bismarck	Bismarck Muni	1/4297	ILS Rwy 31, Amdt 32A
05/08/01	PW	Babel Thuap Island	Babel Thaup/Kor Or	1/4320	GPS Rwy 27, Amdt 1
05/08/01	PW	Babel Thuap Island	Babel Thuap Island/Kor Or	1/4321	GPS Rwy 9, Amdt 1
05/09/01	VA	Saluda	Hummel Field	1/4328	GPS Rwy 36, Orig
05/09/01	MN	Duluth	Duluth Intl	1/4354	GPS Rwy 21, Orig
05/09/01	TX	Cleveland	Cleveland Muni	1/4368	GPS Rwy 16, Orig
05/09/01	WA	Everett	Snohomish County (Paine Field)	1/4386	VOR or GPS–B, Orig–A

[FR Doc. 01–12485 Filed 5–16–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30247; Amdt. No. 2050]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169

ADDRESSES: (Mail P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP

as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on May 11, 2001.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective July 12, 2001*

Bethel, AK, Bethel, VOR RWY 36, Amdt 7A, CANCELLED
St George, AK, St George, ILS RWY 11, Orig
St. Mary's, AK, St. Mary's, RNAV (GPS) RWY 16, Orig
St. Mary's, AK, St. Mary's GPS RWY 16, Amdt 1, CANCELLED
Washington, DC, Ronald Regan Washington National, VOR/DME RNAV OR GPS–A, Amdt 6A, CANCELLED
Fort Myers, FL, Southwest Florida Intl, RADAR–1, Amdt 6
Fort Meyers, FL, Page Field, RADAR–1, Amdt 3
Jasper, GA Pickens County, NDB RWY 34, Orig
Belleville, IL, Scott AFB/Midamerica, ILS RWY 14R, Orig
Salem, IL, Salem-Leckrone, NDB RWY 18, Amdt 10
Salem, IL, Salem-Leckrone, RNAV (GPS) RWY 18, Orig
Salem, IL, Salem-Leckrone, RNAV (GPS) RWY 36, Orig
Salem, IL Salem-Leckrone, GPS RWY 18, Orig, CANCELLED
Lexington, KY, Blue Grass, RNAV (GPS) RWY 4, Orig
Lexington, KY, Blue Grass, RNAV (GPS) RWY 8, Orig
Lexington, KY, Blue Grass, RNAV (GPS) RWY 22, Orig
Lexington, KY, Blue Grass, RNAV (GPS) RWY 26, Orig
Houma, LA, Houma-Terrebonne, VOR/DME RNAV 36, Amdt 4, CANCELLED
Bedford, MA, Laurence G. Hanscom Field, ILS RWY 29, Amdt 5
Baudette, MN, Baudette Intl, VOR RWY 30, Amdt 10
Baudette, MN, Baudette Intl, VOR/DME RWY 12, Amdt 5
Baudette, MN, Baudette Intl, RNAV (GPS) RWY 30, Orig
Olive Branch, MS, Olive Branch, RNAV (GPS) RWY 18, Orig
Kenansville, NC, Duplin County, LOC RWY 22, Orig
Kenansville, NC, Duplin County, LOC RWY 22, Orig-B, CANCELLED
Kenansville, NC, Duplin County, NDB RWY 22, Amdt 5B, CANCELLED
Kenansville, NC, Duplin County, NDB RWY 22, Orig
Philadelphia, PA, Philadelphia Intl, RADAR–1, Amdt 17, CANCELLED
Salt Lake City, UT, Salt Lake City Intl, ILS RWY 16L, Orig
Salt Lake City, UT, Salt Lake City Intl, ILS/DME RWY 16L, Amdt 12A, CANCELLED
Salt Lake City, UT, Salt Lake City Intl, ILS RWY 16R, Orig
Salt Lake City, UT, Salt Lake City Intl, ILS/DME RWY 16R, Amdt 3A, CANCELLED
Salt Lake City, UT, Salt Lake City Intl, ILS RWY 17, Amdt 12
Salt Lake City, UT, Salt Lake City Intl, RNAV (GPS) RWY 16L, Orig
Salt Lake City, UT, Salt Lake City Intl, RNAV (GPS) RWY 16R, Orig
Salt Lake City, UT, Salt Lake City Intl, GPS RWY 16L, Orig-A, CANCELLED
Salt Lake City, UT, Salt Lake City Intl, GPS RWY 17, Orig-B CANCELLED
Salt Lake City, UT, Salt Lake City Intl, RNAV (GPS) RWY 17 Orig
Green Bay, WI, Austin Straubel Intl, RNAV (GPS) RWY 6, Amdt 1
Green Bay, WI, Austin Straubel Intl, RNAV (GPS) RWY 18, Orig
Green Bay, WI, Austin Straubel Intl, RNAV (GPS) RWY 24, Orig
Green Bay, WI, Austin Straubel Intl, RNAV (GPS) RWY 36, Amdt 1

The FAA published an Amendment in Docket No. *30245*, Amdt No. *2048* to Part 97 of the Federal Aviation Regulations (Vol *66*, FR No. *87*, Page *22438;* dated *May 4, 2001*) Under section 97.33 effective *July 12, 2001*, which is hereby amended as follows:

Colby, KS, Shaltz Field, RNAV RWY 17, ORIG
Colby, KS, Shaltz Field, RNAV RWY 35, ORIG

Should read:

Colby, KS, Shaltz Field, RNAV (GPS) RWY 17, ORIG
Colby, KS, Shaltz Field, RNAV (GPS) RWY 35, ORIG

[FR Doc. 01–12486 Filed 5–16–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 132 and 163

[T.D. 01–35]

RIN 1515–AC83

Licenses for Certain Worsted Wool Fabrics Subject to Tariff-Rate Quota

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim rule; correction.

SUMMARY: This document contains a correction to the interim regulations that

were published in the **Federal Register** on May 1, 2001, concerning the implementation of a tariff-rate quota for certain worsted wool fabric. The interim regulations amended the Customs Regulations to set forth the form and manner by which an importer establishes that a valid license, issued under regulations of the U.S. Department of Commerce, is in effect for worsted wool fabric that is subject to the tariff-rate quota. The importer must be in possession of the license, or if the importer is not the licensee, the importer must possess a written authorization from the licensee, in order to be able to claim the in-quota rate of duty on the worsted wool fabric.

DATES: Interim rule effective on May 1, 2001. The interim rule is applicable to products that are entered, or withdrawn from warehouse, for consumption on or after January 1, 2001. Comments must be received on or before July 2, 2001.

ADDRESSES: Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Tom Fitzpatrick, Office of Field Operations, (202–927–5385).

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** (66 FR 21664) on May 1, 2001, as T.D. 01–35, amended the Customs Regulations on an interim basis concerning the implementation of a tariff-rate quota for certain worsted wool fabric. Specifically, the interim regulations amended the Customs Regulations by adding a new § 132.18 that set forth the form and manner by which an importer establishes that a valid license, issued under regulations of the U.S. Department of Commerce ("Commerce"), is in effect for worsted wool fabric that is the subject of the tariff-rate quota. The importer must be in possession of the license or, if not the licensee, the importer must possess a written authorization from the licensee, in order to be able to claim the in-quota rate of duty on the worsted wool fabric.

The interim rule stated that it would be applicable to worsted wool products that were entered or withdrawn from warehouse for consumption on or after May 1, 2001.

However, under section 501 of the Trade and Development Act of 2000(Pub. L. 106–200, 114 Stat. 251; May 18, 2000), the Harmonized Tariff Schedule of the United States (HTSUS) was amended to establish a tariff-rate quota covering designated worsted wool fabrics that were entered or withdrawn from warehouse for consumption, on or after January 1, 2001.

In this regard, an import license issued by Commerce that would entitle an importer to claim the in-quota rate of duty on worsted wool fabric is valid for the entire calendar year for which the license is issued (see 19 CFR 132.18(c)(2) at 66 FR 21667). Licenses issued by Commerce for the year 2001 are therefore intended to cover worsted wool fabrics subject to the tariff-rate quota that are entered or withdrawn from warehouse for consumption on or after January 1, 2001.

Consequently, the interim rule is applicable to worsted wool fabrics covered under the tariff-rate quota that are entered or withdrawn from warehouse for consumption on or after January 1, 2001, as indicated above under the **DATES** caption, and as corrected below.

Need for Correction

For the reasons noted, the interim rule, as published, requires clarification.

Correction of Publication

The publication on May 1, 2001 of the interim rule (T.D. 01–35), which was the subject of FR Doc. 01–10717, is corrected as follows:

On page 21664, in the third column, under the **DATES** caption, the second sentence is corrected to read: "The interim rule is applicable to products that are entered, or withdrawn from warehouse, for consumption, on or after January 1, 2001."

Dated: May 11, 2001.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 01–12391 Filed 5–16–01; 8:45 am]

BILLING CODE 4820–02–P

RAILROAD RETIREMENT BOARD

20 CFR Part 217

RIN 3220–AB45

Application for Annuity or Lump Sum

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board amends its regulations to enable a divorced spouse who remarries the employee within six months of the divorce to use the spouse application to qualify for a divorced spouse annuity for the period prior to the remarriage. This amendment eliminates the necessity for the spouse to file a separate application for a short period of benefits.

EFFECTIVE DATE: This rule is effective May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, telephone (312) 751–4945, TTD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Section 217.8 of the Board's regulations describes situations where the Board will accept an application filed for one type of annuity as an application for another type of annuity. An application may be effective for the period six months prior to the date of filing. This final rule adds a provision to enable a divorced spouse who remarries the employee within six months of the divorce to use the spouse application to qualify for a divorced spouse annuity for the period after the divorce and prior to the remarriage. In such cases the requirement that a claimant be married to the employee for a period of one year prior to application for a spouse annuity, as required by § 216.54 of this part, is waived.

The Board published this rule as a proposed rule on May 11, 2000 (65 FR 30366) and invited comments by July 10, 2000. No comments were received. Accordingly, the proposed rule is adopted as a final rule without change.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866; therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 217

Railroad employees, Railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board amends chapter II of title 20 of the Code of Federal Regulations as follows:

PART 217—APPLICATION FOR ANNUITY OR LUMP SUM

1. The authority citation for part 217 continues to read as follows:

Authority: 45 U.S.C. 231d and 45 U.S.C. 231f.

2. In Subpart B, § 217.8, redesignate paragraphs (m) through (u) as (n) through (v), and add a new paragraph (m) to read as follows:

§ 217.8 When one application satisfies the filing requirement for other benefits.

* * * * *

(m) A divorced spouse annuity if the spouse claimant has remarried the employee during the six-month retroactive period of the spouse annuity application.

* * * * *

Dated: May 1, 2001.
By Authority of the Board.
Beatrice Ezerski,
Secretary to the Board.
[FR Doc. 01–12395 Filed 5–16–01; 8:45 am]
BILLING CODE 7905–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[ND–040–FOR; North Dakota State Program Amendment XXIX]

North Dakota Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving a proposed amendment to the North Dakota regulatory program (hereinafter, the "North Dakota program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of changes to North Dakota's revegetation policy document, Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments. Many of the changes are the result of rule changes that were submitted as amendments to the North Dakota regulatory program and approved by OSM in the April 28, 1997, and March 16, 1999, **Federal Registers** (62 FR 22889, and 64 FR 12896), giving mining companies options for proving reclamation success and revising requirements for tree and shrub standards. The corresponding changes are now being incorporated into the policy document. Other changes include clarifications, adjusting crop yield data, adding factors for adjusting yield standards, requiring plant species to be predominantly native, providing consistency for diversity and seasonality, prescribing the number of species for tame pastureland and clarifying sampling procedures. North Dakota intended to revise its policy document to reflect changes to its statute and regulations and make it consistent with corresponding Federal regulations and SMCRA.

EFFECTIVE DATE: May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (307) 261–6550, Internet address: Gpadgett@OSMRE.GOV.

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background of the North Dakota Program

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. You can find background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval in the December 15, 1980, **Federal Register** (45 FR 82214). North Dakota's "Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments," hereafter referred to as the "policy document" was submitted to OSM on June 1, 1988. The policy document was submitted to satisfy the requirements of 30 CFR 816.116(a)(1). The Federal regulations at 30 CFR 816.116(a)(1) require that regulatory authorities select revegetation success standards and statistically valid techniques for determining revegetation success and include them in its approved regulatory program. The policy document satisfies both these requirements. OSM's approval of the policy document was published in the March 10, 1989, **Federal Register** (46 FR 10141). Subsequent revisions to the policy document were approved by OSM on February 17, 1994, and January 8, 1999.

The North Dakota regulatory program contains specific rules governing standards for success of various postmining land uses in NDAC 69–05.2–22–07. These rules have been approved by OSM as being consistent with 30 CFR 816.111 and 816.116. North Dakota's policy document must be consistent with these State requirements.

You can find other actions concerning North Dakota's program and program amendments at 30 CFR 934.15 and 934.16.

II. Submission of the Proposed Amendment

By letter dated March 16, 2000, North Dakota sent us an amendment to its program (North Dakota State Program Amendment XXIX), administrative record No. ND–DD–01) under SMCRA (30 U.S.C. 1201 *et seq.*). The amendment revises North Dakota's revegetation policy document. Many of the changes are made to incorporate rule changes that were approved by OSM on April 28, 1997, and March 16, 1999, pertaining to the new option of proving reclamation success for three out of five years, starting no sooner than the eighth year of the responsibility period and revised reclamation success standards for woodlands and shelter belts.

In addition to revisions that are made as a result of rule changes previously approved by OSM, numerous other changes are also proposed. These changes include (1) clarifying the objectives section, (2) adding provisions to adjust North Dakota Agricultural Statistic Service crop yield data to reflect certain management practices, (3) including other factors, in addition to precipitation and temperature, in developing a cropland and/or tame pastureland regression equation to climatically adjust yield standards, (4) adding a statement to the native grassland section that established plant species must be predominantly native, (5) providing more consistency for species that must be present on tame pastureland, and (7) clarifying sampling procedures regarding when plant growth forms must be weighed separately. Some example calculations were also revised to better reflect premine conditions found at most of the mines. Editorial changes were made to correct errors in statistical formulas and revisions were made to the objectives section to clarify when certain requirements became effective.

We announced receipt of the proposed amendment in the March 31, 2000, **Federal Register** (65 FR 17211). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (administrative record No. ND–DD–04). We did not hold a public hearing or meeting because no one requested one. The public comment period ended at 4 pm m.d.t. May 1, 2000.

III. Director's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment revising

North Dakota's Revegetation Policy Document ("Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments") as described below.

1. Numerous Revisions To Reflect Changes to Rules Governing Requirements for Tree and Shrub Standards and Options for Proving Reclamation Success, Previously Approved by OSM as Amendments to the North Dakota Regulatory Program

a. OSM approved amendments to the North Dakota regulatory program in the April 28, 1997, **Federal Register** (62 FR 22889) revising NDAC 69–05.2–22–07. Revegetation standards for reclaimed woodlands and shelterbelts require that at least eighty percent of the trees, shrubs and half-shrubs counted for meeting standards to be in place for at least six years. New rule language states this standard will be deemed satisfied if the mine operator demonstrates that no tree, shrub or half-shrub replanting has occurred during the last six years of the responsibility period. This new language allows mining companies to count all shrubs on reclaimed lands that are established by natural regeneration during the entire revegetation responsibility period. The policy document is revised to reflect these approved changes.

b. OSM approved an amendment to the North Dakota regulatory program in the March 16, 1999, **Federal Register** (64 FR 12896) revising NDAC 69–05.2–22–07. This change gave mining companies the option of proving reclamation success for three out of five consecutive years, starting no sooner than the eighth year of the responsibility period. The responsibility period runs for at least ten years from the date reclaimed lands are seeded. Mining companies still have the option of proving reclamation success by meeting standards for the last two consecutive growing seasons of the responsibility period. The policy document is revised to reflect this approved change.

2. Minor Editorial Revisions to the Policy Document

a. Changing Soil Conservation Service (SCS) to Natural Resources Conservation Service (NRCS)

b. Citing both NRCS and SCS regarding consultation,

c. Updating the title of the NRCS National Range and Pasture Handbook (1997),

d. Correcting rule citations,

e. Changing the document to reflect that three years required for crop production on prime farmlands need not necessarily be consecutive years.

These changes are minor and will not make North Dakota's revegetation policy document less effective than the Federal provisions contained in 30 CFR 816.111 and 816.116.

3. Adding Clarification or Improving Examples Given

a. Improving the examples provided, by reformatting and adding a standard t-test formula for convenience,

b. Clarifying when to use North Dakota Agricultural Service annual county yield data for alfalfa hay yield versus all other hay yield information when evaluating hayland/tame pastureland vegetation production,

c. Clarifying sampling of representative cropland strips, and

d. Clarifying that hand clipped production samples must be separated by growth forms only when used for assessing seasonality.

These changes are mostly clarifications, added explanations, or changes to improve existing examples. We find that they will not make North Dakota's revegetation policy document less effective than the Federal provisions contained in 30 CFR 816.116.

4. Approved Grazing on Native Grasslands

North Dakota proposed adding a statement to Section D. Native Grasslands encouraging the use of approved grazing on native grasslands during the responsibility period. However, initial grazing plans must be approved by the State in accordance with NDAC 69–05.2–22–06. This statement is consistent with State regulations.

5. Native Grasslands Must Be Predominantly Native Cool and Warm Season Grasses

North Dakota proposed adding a statement that native grasslands must be predominantly native cool and warm season grasses and other appropriate plant species in the approved seed mixtures. This statement is consistent with 30 CFR 816.111 which requires the use of species native to the area, or of introduced species where desirable and necessary to achieve the approved postmining land use.

6. Effective Date of Rules That Required Vegetation Measurements

In the Objectives section, North Dakota proposes clarifying the applicability of the revegetation success standards and time frames for evaluation to lands disturbed under the State program both prior to and following the passage SMCRA. This includes language that August 1, 1980, was the effective date of rules that required vegetation measurements to be taken in the last two growing seasons of the revegetation responsibility period. The effective date of the option to prove reclamation success for three out of five consecutive years starting in the eighth year of the revegetation liability period was also added. These dates are the effective dates contained in the existing North Dakota regulations.

7. Vegetative Composition Requirements for Tame Pasturelands at Bond Release

North Dakota proposes to revise Section II–E to establish percentages for the vegetative composition requirements for tame pasturelands at bond release, consistent with the fish and wildlife habitat requirements, (previously there was no defined percentage for individual species). This ensures that the seeded species are present at the time of final bond release consistent with 30 CFR 816.111.

8. Predicting Estimated Summer Fallow or Continuous Cropping Yields

North Dakota proposes to revise the Cropland Section to include county-specific regression/correlation equations to predict the estimated summer fallow or continuous cropping yields based on annual county yields. The regression/correlation equations are based on long term county data. The equations were developed for the years of 1996 and later because the NDASS discontinued reporting individual yield values for summer fallow or continuous cropping after 1995.

The existing Cropland Section of the policy document, which applies to both prime farmland and non-prime farmland, allows the use of North Dakota Agricultural Statistics Service (NDASS) county cropland yields. This is consistent with 30 CFR 816.116(b)(2) which requires that for areas developed for use as cropland, crop production on the revegetated area shall be at least equal to that of a reference area or such other success standards approved by the regulatory authority.

For prime farmland only, 30 CFR 823.15(b)(7) states that Reference crop yields for a given crop season are to be determined from—(i) The current yield records of representative local farms in the surrounding area, with concurrence by the U.S. Soil Conservation Service (now the Natural Resources Conservation Service (NRCS); or (ii) The average county yields recognized by the U.S. Department of Agriculture, which have been adjusted by the U.S. (NRCS) for local yield variation within the

county that is associated with differences between nonmined prime farmland soil and all other soils that produce the reference crop.

The prime farmland regulations at 30 CFR 823.15(b)(8) state that under either procedure in Paragraph (b)(7) of this Section, the average reference crop yield may be adjusted, with the concurrence of the U.S. Soil Conservation Service (NRCS), for—(i) Disease, pest, and weather-induced seasonal variations; or (ii) Differences in specific management practices where the overall management practices of the crops being compared are equivalent.

North Dakota's proposed county-specific regression/correlation equations to predict the estimated summer fallow or continuous cropping yields based on annual county yields are appropriate for creating technical standards. In accordance with 30 CFR 823.15(b)(8)(ii) for prime farmland standards (which are included under this section of the guidelines) the NRCS must concur with the proposed adjustment of average reference crop yields for differences in specific management practices where the overall management practices of the crops being compared are equivalent. In response to this requirement North Dakota provided a letter dated April 6, 2000, documenting the NRCS's concurrence with the proposed method for adjusting county yield data for summer fallow or continuous cropping.

9. Revise Correction Method 3 (Cropland) and 2 (Tame Pastureland)

North Dakota proposes to revise Correction Method 3 in Section II–C, Cropland, and Correction Method 2 in Section II–E, Tame Pastureland, to allow the use of other pertinent data, as well as precipitation and temperature to calculate a correction factor. It also allows the use of other formulas developed by the State besides regression equations.

30 CFR 816.116(b)(2) requires that for areas developed for use as cropland, crop production on the revegetated area shall be at least equal to that of a reference area or such other success standards approved by the regulatory authority. The approved policy document, sections II–C, Cropland, and II–E, Tame Pastureland, contain correction methods that allow the use of NDASS data in conjunction with precipitation and temperature data to calculate a correction factor. The regression equations will be developed or updated by the State. They would predict a deviation from the long term average NDASS yields based on current precipitation and growing season temperature.

For prime farmlands, 30 CFR 823.15(b)(7) states that Reference Crop yields for a given crop season are to be determined from—(i) The current yield records of representative local farms in the surrounding area, with concurrence by the U.S. Soil Conservation Service (NRCS); or (ii) The average county yields recognized by the U.S. Department of Agriculture, which have been adjusted by the U.S. Soil Conservation Service (NRCS) for local yield variation within the county that is associated with differences between nonmined prime farmland soil and all other soils that produce the reference crop.

The prime farmland regulations at 30 CFR 823.15(b)(8) require that under either procedure in Paragraph (b)(7) of this Section, the average reference crop yield may be adjusted, with the concurrence of the U.S. Soil Conservation Service (NRCS), for—(i) Disease, pest, and weather-induced seasonal variations; or (ii) Differences in specific management practices where the overall management practices of the crops being compared are equivalent.

In support of the proposed language to allow the use of other pertinent data in developing correction factors for any regression equations that are developed, North Dakota has stated that pertinent data includes other factors such as number of days during critical parts of the growing season where the maximum temperature exceeds a certain level, the incidence of widespread crop disease and/or insect damage. Based on the information provided and the NRCS concurrence discussed below the proposed revision of the two correction methods is appropriate.

Pursuant to 30 CFR 823.15(b)(8) for prime farmland standards (which are included under the Cropland section of the guidelines) North Dakota has provided a letter dated April 6, 2000 (administrative record No. ND–DD–05), documenting the NRCS's concurrence with the proposed changes to the correction methods.

10. Diversity and Seasonality Standards for Native Grassland

North Dakota proposes to revise its diversity and seasonality standards contained in Section II–D, for Native Grassland. As proposed the State would add an introduction to the diversity standard that the presence of adequate plant species diversity in the reclaimed native grasslands is of much importance because it reflects environmental/community stability and ensures some degree of sustainability under the intended land use. Both cool and warm season grass species are important and needed in native grasslands. Therefore, reclaimed native grasslands must be established predominantly with both cool and warm season native grass species and other appropriate plant species in the approved seed mixtures. The diversity and seasonality standards that follow require that either production or cover data be used to show that the standards have been achieved.

The diversity and seasonality standards can be based on the range sites that occurred in the premine native grassland tract or they can be based on the range sites that are expected to develop on the reclaimed tract. However, the same methodology must be used when measuring both diversity and seasonality in each of the years these measurements are taken on a given tract. That is if the diversity standard is based on the premine range sites, the seasonality standard must also be based on the premine range sites.

If the diversity and seasonality standards will be based on the range sites that are expected to develop on the reclaimed tract, the discussion of this method in the permit application must address the projected native grassland topsoil and subsoil respread thicknesses and the maximum postmining slopes, with a reference to the postmining area slope map provided in another section of the permit. Soils of the reclaimed tract may be characterized by evaluating the premine soil survey data and the expected mixing that will occur. Following revegetation, a field assessment will be needed to verify the site types on the reclaimed native grassland.

In addition, all the examples for calculating diversity have been revised to reflect the revised diversity standards.

The seasonality standard is also being revised. Seasonality will be based on the percentage of warm season grasses because cool season grasses are very competitive and generally dominate a seeded stand in the Northern Great Plains. To evaluate seasonality of reclaimed native grassland, one of two following standards may be used. Both standards allow the use of either the pre-mine range sites or the range sites that are expected to develop on the reclaimed tract. As previously noted, the same methodology used to measure diversity must be used to measure seasonality. Both standards are based on the percent composition of warm season grasses relative to total species composition. The example seasonality calculations have also been revised to reflect the revised standard.

The Federal regulations at 30 CFR 816.111(a)(1) require that the permittee shall establish on regraded areas and on all other disturbed areas except water areas and surface areas of roads that are approved as part of the postmining land use, a vegetative cover that is in accordance with the approved permit and reclamation plan and that is diverse, effective, and permanent. 30 CFR 816.111(b)(2) requires that the reestablished plant species shall have the same seasonal characteristics of growth as the original vegetation. Beyond this language no specific success standards are provided for diversity or seasonality. This is left to the discretion of the regulatory authority. North Dakota's proposed diversity and seasonality standards are consistent with the Federal regulations and are no less effective.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (administrative record No. ND–DD–03), but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i), we requested on March 30, 2000, comments on the amendment from various Federal agencies with an actual or potential interest in the North Dakota program (administrative record No. ND–DD–03).

Thomas E. Jewett, State Conservationist for the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS), in addition to stating in his April 6, 2000 letter to North Dakota Reclamation Division Director James R. Deutsch, that "We concur with all proposed changes. * * *" further commented on recent changes to NRCS cropland productivity indexes that are used in North Dakota's revegetation document. In an April 11, 2000 letter to OSM Casper Field Office Director, Guy Padgett, North Dakota Reclamation Division Director James R. Deutsch stated, "Please be advised we plan to incorporate the updated indexes into the document the next time some changes are made."

State Conservationist Thomas E. Jewett, further responded with a May 2, 2000 letter (administrative record No. ND–DD–06) to OSM Casper Field Office Director, Guy Padgett, thatNRCS is in the process of developing Ecological Site Descriptions to replace Range Site Descriptions. It also questioned what reference sites might be used if soil chemistry or other critical soil parameters were sufficiently altered on reclaimed areas.

NRCS also raised the possibility that a native grassland reference area may be located on rangeland that is in poor condition. In addition, that NRCS references should be made to specific parts of the Field Office Technical Guide. Finally, that vegetation document text references should be to the current name of the agency, the Natural Resources Conservation Service, and not to its former name, the Soil Conservation Service.

In his June 23, 2000 response (administrative record No. ND–DD–07) to Mr. Jewett's May 2, 2000 letter, the director of the Reclamation Division of the North Dakota Public Service Commission, James R. Deutsch, stated that: (1) He was aware that Ecological Site Descriptions will be replacing Range Site Descriptions but that it would be several years at which time he would decide if it is necessary to revise the revegetation document accordingly; (2) that a reference area and a reclaimed tract must receive management that is equivalent in effect during the revegetation responsibility period; and (3) that North Dakota will review the bibliography and references for possible changes with the next revision to the revegetation document.

OSM concurs with Mr. Deutsch's response to Mr. Jewett's concerns.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i), OSM requested comments on the amendment from EPA (administrative record No. ND–DD–03). EPA did not respond to our request.

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On March 30, 2000, we requested comments on North Dakota's amendment (administrative record No. XXIX), but neither responded to our request.

V. Director's Decision

Based on the above findings, we approve the amendment sent to us by North Dakota, as revised on March 16, 2000.

We approve. as discussed in: finding No. 1, Minor Editorial changes, finding No. 2, concerning II–C, Cropland; finding No. 3, concerning II–C and II–E, Cropland and Tame Pastureland; and finding No. 4, concerning Native Grassland.

To implement this decision, we are amending the Federal regulations at 30 CFR part 934, which codify decisions concerning the North Dakota program. We are making his final rule effective immediately to expedite the State program amendment process and to encourage States to make their programs conform with the Federal standards. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12988

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

3. National Environmental Policy Act

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

4. Paperwork Reduction Act

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

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a

substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

6. Unfunded Mandates

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

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 3, 2001.

Brent Wahlquist,

Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 934 is amended as set forth below:

PART 934—NORTH DAKOTA

1. The authority citation for part 934 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 934.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 934.15 Approval of North Dakota regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
March 16, 2000	May 17, 2001	Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments.

[FR Doc. 01–12456 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE 054–1031a; FRL–6981–4]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Nitrogen Oxides Budget Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the Delaware State Implementation Plan (SIP) submitted on November 17, 2000. This revision responds to the EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO_X SIP Call." This revision establishes and requires a nitrogen oxides (NO_X) allowance trading program for large electric generating and industrial units, beginning in 2003. The intended effect of this action is to approve the Delaware NO_X Budget Trading Program because it addresses the requirements of the NO_X SIP Call Phase I that will significantly reduce ozone transport in the eastern United States. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on July 16, 2001 without further notice, unless EPA receives adverse written comment by June 18, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Cristina Fernandez, (215) 814–2178, or by e-mail at fernandez.cristina@epa.gov.

SUPPLEMENTARY INFORMATION: On November 17, 2000, the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a revision to its SIP to address the requirements of the NO_X SIP Call Phase I. The revision consists of the adoption of Regulation No. 39—Nitrogen Oxides Budget Trading Program.

The information in this section is organized as follows:

I. EPA's Action
  A. What action is EPA taking today?
  B. Why is EPA taking direct final action?
  C. What are the general NO_X SIP Call requirements?
  D. What is EPA's NO_X budget trading program?
  E. What guidance did EPA use to evaluate Delaware's submittal?
II. Delaware's NO_X Budget Trading Program
  A. When did Delaware submit the SIP revision to EPA in response to the NO_X SIP Call?
  B. What is the Delaware NO_X Budget Trading Program?
  C. What is the result of EPA's evaluation of Delaware's program?
III. Final Action
  A. NO_X SIP Call Requirements
  B. One-Hour Attainment Demonstration Plans
IV. Administrative Requirements
  A. General Requirements
  B. Submission to Congress and the Comptroller General
  C. Petitions for Judicial Review

I. EPA's Action

A. What Action Is EPA Taking Today?

EPA is taking direct final action to approve the Delaware SIP revision concerning the adoption of its NO_X

Budget Trading Program, submitted on November 17, 2000.

B. Why Is EPA Taking Direct Final Action?

EPA is taking direct final action for two purposes. Delaware's NO_X Budget Trading Program regulations address the requirements of the NO_X SIP Call Phase I. In addition, Delaware's NO_X Budget Trading Program regulations are part of the Delaware one-hour ozone attainment demonstration plan for the Philadelphia-Wilmington-Trenton severe ozone nonattainment area. The Delaware one-hour attainment demonstration plan for the Philadelphia-Wilmington-Trenton ozone nonattainment area relies on the NO_X reductions associated with the NO_X Budget Trading Program in 2003 and beyond. Therefore, EPA is approving Delaware's NO_X Budget Trading Program for two reasons. First, because it addresses the requirements of the NO_X SIP Call Phase I, and secondly as a strengthening measure for the one-hour ozone standard attainment for Philadelphia-Wilmington-Trenton ozone nonattainment area.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve Delaware's NO_X Budget Trading Program if adverse comments are filed. This rule will be effective on July 16, 2001 without further notice unless EPA receives adverse comment by June 18, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

C. What Are the General NO_X SIP Call Requirements?

On October 27, 1998, EPA published a final rule entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO_X SIP Call." See 63 FR 57356. The NO_X SIP Call requires 22 States and the District of Columbia to meet statewide NO_X emission budgets during the five month period between May 1 and October 1 in order to reduce the amount of ground level ozone that is transported across the eastern United States.

EPA determined state-wide NO_X emission budgets for each affected jurisdiction to be met by the year 2007. EPA identified NO_X emission reductions by source category that could be achieved by using cost-effective measures. The source categories included were electric generating units (EGUs), non-electric generating units (non-EGUs), area sources, nonroad mobile sources and highway sources. However, the NO_X SIP Call allowed states the flexibility to decide which source categories to regulate in order to meet the statewide budgets. In the NO_X SIP Call document, EPA suggested that imposing statewide NO_X emissions caps on large fossil-fuel fired industrial boilers and electricity generating units would provide a highly cost effective means for States to meet their NO_X budgets. In fact, the state-specific budgets were set assuming an emission rate of 0.15 pounds NO_X per million British thermal units (lb. NO_X/mmBtu) at EGUs, multiplied by the projected heat input (mmBtu) from burning the quantity of fuel needed to meet the 2007 forecast for electricity demand. See 63 FR 57407. The calculation of the 2007 EGU emissions assumed that an emissions trading program would be part of an EGU control program. The NO_X SIP Call state budgets also assumed on average a 30% NO_X reduction from cement kilns, a 60% reduction from industrial boilers and combustion turbines, and a 90% reduction from internal combustion engines. The non-EGU control assumptions were applied at units where the heat input capacities were greater than 250 mmBtu per hour, or in cases where heat input data were not available or appropriate, at units with actual emissions greater than one ton per day.

To assist the states in their efforts to meet the SIP Call, the NO_X SIP Call final rulemaking notice included a model NO_X allowance trading regulation, called "NO_X Budget Trading Program for State Implementation Plans," (40 CFR part 96), that could be used by states to develop their regulations. The NO_X SIP Call notice explained that if states developed an allowance trading regulation consistent with the EPA model rule, they could participate in a regional allowance trading program that would be administered by the EPA. See 63 FR 57458–57459.

There were several periods during which EPA received comments on various aspects of the NO_X SIP Call emissions inventories. On March 2, 2000, EPA published additional technical amendments to the NO_X SIP Call in the **Federal Register** (65 FR 11222). The March 2, 2000 final rulemaking established the inventories upon which Delaware's final budget is based.

On March 3, 2000, the D.C. Circuit issued its decision on the NO_X SIP Call ruling in favor of EPA on all the major issues. *Michigan* v. *EPA*, 213 F.3d 663 (D.C. Cir. 2000). The Court denied petitioners' requests for rehearing or rehearing *en banc* on July 22, 2000. However, the Court ruled against EPA on four narrow issues. The Court remanded certain matters for further rulemaking by EPA. EPA expects to publish a proposal that addresses the remanded portion of the NO_X SIP Call Rule. Any additional emissions reductions required as a result of a final rulemaking on that proposal will be reflected in the second phase portion (Phase II) of the State's emissions budget. Delaware is required to submit SIP revisions to address the Phase II of the NO_X SIP Call Rule.

D. What Is EPA's NO_X Budget Trading Program?

EPA's model NO_X budget and allowance trading rule, 40 CFR part 96, sets forth a NO_X emissions trading program for large EGUs and non-EGUs. A state can voluntarily choose to adopt EPA's model rule in order to allow sources within its borders to participate in regional allowance trading. The October 27, 1998 **Federal Register** document contains a full description of the EPA's model NO_X budget trading program. See 63 FR 57514–57538 and 40 CFR part 96. In general, air emissions trading uses market forces to reduce the overall cost of compliance for pollution sources, such as power plants, while maintaining emission reductions and environmental benefits. One type of market-based program is an emissions budget and allowance trading program, commonly referred to as a "cap and trade" program.

In an emissions budget and allowance trading program, the state or EPA sets a regulatory limit, or emissions budget, in mass emissions from a specific group of sources. The budget limits the total number of allocated allowances during a particular control period. When the budget is set at a level lower than the current emissions, the effect is to reduce

the total amount of emissions during the control period. After setting the budget, the state or EPA then assigns, or allocates, allowances to the participating entities up to the level of the budget. Each allowance authorizes the emission of a quantity of pollutant, *e.g.*, one ton of airborne NO_X.

At the end of the control period, each source must demonstrate that its actual emissions during the control period were less than or equal to the number of available allowances it holds. Sources that reduce their emissions below their allocated allowance level may sell their extra allowances. Sources that emit more than the amount of their allocated allowance level may buy allowances from the sources with extra reductions. In this way, the budget is met in the most cost-effective manner.

E. What Guidance Did EPA Use To Evaluate Delaware's Submittal?

The final NO_X SIP Call rule included a model NO_X budget trading program regulation. See 40 CFR part 96. EPA used the model rule and 40 CFR 51.121–51.122 to evaluate Delaware's NO_X Budget Trading Program.

II. Delaware's NO_X Budget Trading Program

A. When Did Delaware Submit the SIP Revision to EPA in Response to the NO_X SIP Call?

On November 17, 2000, the Delaware Department of Natural Resources and Environmental Control submitted a revision to its SIP to address the requirements of the NO_X SIP Call.

B. What Is the Delaware NO_X Budget Trading Program?

Delaware's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Regulation No. 39—Nitrogen Oxides Budget Trading Program. Delaware's NO_X Budget Trading Program affects electric generating units and certain non-electric generating units.

Regulation No. 39—Nitrogen Oxides Budget Trading Program is divided into fifteen new sections and two appendices: (1) Purpose; (2) Emission Limitation; (3) Applicability; (4) Definitions; (5) General Provisions; (6) NO_X Authorized Account Representative for NO_X Budget Sources; (7) Permits; (8) Monitoring and Reporting; (9) NATS; (10) NO_X Allowance Transfers; (11) Compliance Certification; (12) End-of-Season Reconciliation; (13) Failure to Meet Compliance Requirements; (14) Individual Unit Opt-Ins; (15) General Accounts; Appendix A—Allowance Allocations to NO_X Budget Units; Appendix B—Regulation No. 37–Regulation No. 39 Program Transition.

The Delaware NO_X Budget Trading Program establishes and requires a NO_X allowance trading program for large electric generating and industrial units. Regulation No. 39—NO_X Budget Trading Program establishes a NO_X cap and allowance trading program with a budget of 5,227 tons of NO_X for the ozone seasons of 2003 and beyond. The State of Delaware voluntarily chose to follow EPA's model NO_X budget and allowance trading rule, 40 CFR part 96, that sets forth a NO_X emissions trading program for large EGUs and non-EGUs. Because the Delaware NO_X Budget Trading Program is based upon EPA's model rule, Delaware sources are allowed to participate in the interstate NO_X allowance trading program that EPA will administer for the participating states. The State of Delaware has adopted regulations that are substantively identical to 40 CFR part 96. Therefore, pursuant to 40 CFR 51.121(p)(1), Delaware's SIP revision is automatically approved as satisfying the same portion of the State's NO_X emission reduction obligations Delaware projects such regulations will satisfy.

Under the NO_X Budget Trading Program, Delaware allocates NO_X allowances to the EGUs and non-EGUs units that are affected by these requirements. The NO_X trading program applies to all fossil fuel fired EGUs with a nameplate capacity greater than 15 MW or more that sell any amount of electricity to the grid as well as any non-EGUs that have a heat input capacity equal to or greater than 250 mmBtu per hour. Each NO_X allowance permits a source to emit one ton of NO_X during the seasonal control period. NO_X allowances may be bought or sold. Unused NO_X allowances may also be banked for future use, with certain limitations. Source owners will monitor their NO_X emissions by using systems that meet the requirements of 40 CFR part 75, subpart H, and report resulting data to EPA electronically. Each budget source complies with the program by demonstrating at the end of each control period that actual emissions do not exceed the amount of allowances held for that period. However, regardless of the number of allowances a source holds, it cannot emit at levels that would violate other federal or state limits, for example, reasonably available control technology (RACT), new source performance standards, or Title IV (the federal Acid Rain program).

Delaware's SIP revision, submitted on November 17, 2000, does not establish requirements for stationary internal combustion engines. Delaware will be required to submit SIP revisions to address any additional emission reductions required to meet the State's overall emissions budget. In addition, Delaware's submittal does not rely on any additional reductions beyond the anticipated federal measures in the mobile and area source categories.

Delaware's submittal demonstrates that the NO_X emission budgets established by EPA (65 FR 11222) will be met as follows:

Source category	EPA 2007 NO_X budget emissions (tons/season) Delaware 2007	Delaware 2007 NO_X budget emissions (tons/season)
EGUs	5,250	5,250
Non-EGUs	2,473	2,473
Area Sources	1,129	1,129
Non-road Sources	5,651	5,651
Highway Sources	8,358	8,358
Total	22,861	22,861

C. What Is the Result of EPA's Evaluation of Delaware's Program?

EPA has evaluated Delaware's November 17, 2000 SIP submittal and finds it approvable. The Delaware NO_X Budget Trading Program is consistent with EPA's guidance and addresses the requirements of the NO_X SIP Call Phase I. EPA finds the NO_X control measures in the Delaware's NO_X Budget Trading Program approvable. The November 17, 2000 submittal will strengthen Delaware's SIP for reducing ground level ozone by providing NO_X reductions beginning in 2003. Furthermore, Delaware's NO_X Budget Trading Program is necessary to fulfill a requirement of the one-hour ozone attainment plan for the severe ozone nonattainment area of Delaware. The Delaware attainment demonstration plan for the Philadelphia-Wilmington-Trenton ozone nonattainment area relies on the NO_X reductions associated with the NO_X Budget Trading Program in 2003 and beyond. EPA finds that Delaware's submittal is fully approvable because it addresses the requirements of the NO_X SIP Call Phase I and it is a strengthening measure for the Delaware one-hour ozone attainment plan for the Philadelphia-Wilmington-Trenton ozone nonattainment area.

III. Final Action

A. NO_X SIP Call Requirements

EPA is approving the Delaware SIP revision consisting of its NO_X Budget

Trading Program, submitted on November 17, 2000. EPA finds that the Delaware NO_X Budget Trading Program is fully approvable because it addresses the requirements of the NO_X SIP Call Phase I.

B. One-Hour Attainment Demonstration Plans

EPA is approving the Delaware SIP revision concerning the adoption of the NO_X Budget Trading Program, which was submitted on November 17, 2000. EPA finds that Delaware's submittal is fully approvable because it is a strengthening measure for the Delaware's one-hour ozone attainment plan for its severe ozone nonattainment area, namely the Philadelphia-Wilmington-Trenton ozone nonattainment area. Moreover, this SIP revision is necessary for full approval of the attainment demonstration SIP for the Philadelphia-Wilmington-Trenton ozone nonattainment area. The EPA is currently under an obligation to complete rulemaking by October 15, 2001 fully approving the attainment demonstration for the Philadelphia-Wilmington-Trenton ozone nonattainment area or, in the alternative, proposing a federal implementation plan.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 16, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Delaware NO_X Budget Trading Program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 8, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart I—Delaware

2. In § 52.420, add entry in numerical order for Delaware Regulation No. 39—Nitrogen Oxides Budget Trading Program in the "EPA-Approved Regulations in the Delaware SIP" table in paragraph (c) to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA–APPROVED REGULATIONS IN THE DELAWARE SIP

State citation	Title/subject	State effective date	EPA approval date	Comments
*	*	*	*	*
Regulation 39—Nitrogen Oxides (NO_X) Budget Trading Program				
Section 1	Purpose	12/11/00	5/17/01 Federal Register cite.	[Use this section as necessary to explain exceptions or limitations]
Section 2	Emission Limitation	12/11/00		
Section 3	Applicability	12/11/00		
Section 4	Definitions	12/11/00		
Section 5	General Provisions	12/11/00		
Section 6	NO_X Authorized Account Representative for NO_X Budget Sources.	12/11/00		
Section 7	Permits	12/11/00		
Section 8	Monitoring and Reporting	12/11/00		
Section 9	NATS	12/11/00		
Section 10	NO_X Allowance Transfers	12/11/00		
Section 11	Compliance Certification	12/11/00		
Section 12	End-of-Season Reconciliation	12/11/00		
Section 13	Failure to Meet Compliance Requirements.	12/11/00		
Section 14	Individual Unit Opt-Ins	12/11/00		
Section 15	General Accounts	12/11/00		
Appendix "A"	Allowance Allocations to NO_X Budget Units.	12/11/00		
Appendix "B"	Regulation No. 37—Regulation No. 39 Program Transition.	12/11/00		
*	*	*	*	*

[FR Doc. 01–12351 Filed 5–16–01; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301126; FRL–6781–8]

RIN 2070–AB78

Cyfluthrin; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of cyfluthrin in or on grapes and raisins; grain of barley, oats, and wheat; and fat of cattle, goats, hogs, horses and sheep. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on grapes and stored grain. This regulation establishes maximum permissible levels for residues of cyfluthrin in these food commodities. These tolerances will expire and are revoked on June 30, 2003.

DATES: This regulation is effective May 17, 2001. Objections and requests for hearings, identified by docket control number OPP–301126, must be received by EPA on or before July 16, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301126 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–9362; and e-mail address: schaible.stephen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially 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	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/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2.*In person*. The Agency has established an official record for this action under docket control number OPP–301126. The official record consists of the documents specifically referenced in this action, 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.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for residues of the insecticide cyfluthrin, cyano[4-fluoro-3-phenoxyphenyl]-methyl-3-[2,2-dichloroethenyl]-2,2-dimethyl-cyclopropanecarboxylate, in or on grape at 1.0 part per million (ppm); grape, raisin at 1.5 ppm; grain of barley, oats, and wheat at 2.0 ppm; and fat of cattle, goats, hogs, horses and sheep at 6.0 ppm. These tolerances will expire and are revoked on June 30, 2003. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemptions for Cyfluthrin on Grapes and Stored Grains and FFDCA Tolerances

According to the South Dakota Department of Agriculture, reports of damage to stored grain from infestations of lesser grain borer have increased in recent years. Lesser grain borer is a serious pest of stored grain because it is capable of destroying whole, sound grain. Storage of grain in larger, less protective structures have caused grain to be more vulnerable to infestations, primarily because the grain remains warmer, creating conditions favorable to insect development. The Applicant claims that there are not currently any effective registered alternatives for control of lesser grain borer. Reldan 4E (chlorpyrifos-methyl) is registered for use on wheat and sorghum but will not control lesser grain borer. Most malathion uses are no longer available, but even if they were insect resistance has built up to the point that this chemical is not effective. Phosphine gas is the primary fumigant of stored grain, but lesser grain borer has begun to demonstrate resistance. Storcide is a combination product containing the active ingredients chlorpyrifos-methyl and cyfluthrin; while the chlorpyrifos-methyl component of this product controls most insect pests in stored grain, the cyfluthrin component is necessary to control the lesser grain borer. The Applicant predicts that without the proposed use of Storcide, between 33% and 50% of bushels could be affected, resulting in $13.3 million in economic losses.

The California Department of Pesticide Regulation states that glassy winged sharpshooters are a recently introduced pest of grape production, and serve as a vector of Pierce's disease, which is caused by the bacterium *Xylella fastidiosa*. This disease can destroy a vineyard within 12 months and can still kill vines 2 to 3 years after infection. Since 1998, growers have observed a 25–30% reduction in vines, with 80% of some vineyard blocks being removed due to the disease. This same infection process and bacterium are the causal agents for other plant diseases in peaches in the southeastern United States and citrus in Brazil.

The required feeding time necessary for the pest to successfully vector bacterium for Pierce's disease is not known as of yet. Therefore, rapid control of the glassy winged sharpshooter may be essential to avoid significant economic losses. Given this, the Applicant claims that the available alternatives, imidacloprid and dimethoate, are not sufficient to provide control of this pest throughout the 7–month period of occurrence in California vineyards. While imidacloprid may provide some control of this pest, the soil applied formulation is slow acting and the foliar formulation has little persistence (thus making multiple applications necessary). The pre-harvest interval for dimethoate makes it impractical for use in grapes. Because of its rapid population advance

and ability to vector problem plant diseases, glassy-winged sharpshooter is now considered to be a significant threat to California's $2.8 billion/year wine, raisin, table grape and citrus industries. The California Department of Food and Agriculture (CDFA) maintains that Pierce's disease is responsible for $12 million in losses of grapevines in Temecula, California.

EPA has authorized under FIFRA section 18 the uses of cyfluthrin on grapes for control of glassy winged sharpshooter in California and on stored grain in South Dakota for control of lesser grain borer and other insect pests. After having reviewed these submissions, EPA concurs that emergency conditions exist for these States.

As part of its assessment of these emergency exemptions, EPA assessed the potential risks presented by residues of cyfluthrin in or on grapes, raisins, and grain, and by secondary residues of cyfluthrin in animal commodities as a result of treated grain commodities being used as feed items. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemptions in order to address urgent non-routine situations and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on June 30, 2003, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on grapes and raisins; grain of barley, oats, and wheat; and fat of cattle, goats, hogs, horses and sheep after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed the levels that were authorized by these tolerances at the time of those applications. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether cyfluthrin meets EPA's registration requirements for use on grapes or stored grain or whether permanent tolerances for these uses would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of cyfluthrin by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than California or South Dakota to use this pesticide on these crops under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemptions for cyfluthrin, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7) .

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of cyfluthrin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for residues of cyfluthrin in or on grape at 1.0 ppm; grape, raisin at 1.5 ppm; grain of barley, oats and wheat at 2.0 ppm; and fat of cattle, goat, hogs, horses and sheep at 6.0 ppm. EPA's assessment of the dietary exposures and risks associated with establishing these tolerances follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for cyfluthrin used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CYFLUTHRIN FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose (mg/kg bwt/day)	Endpoint	Study
Acute Dietary (All population)	Developmental NOAEL = 20.0; LOAEL = 60.0	Increased numbers of resorption and percent incidence of postimplantation loss in rabbits in a developmental toxicity study.	Developmental - rabbit (oral)
	UF=300 (10x inter- and 10x intra- and 3x FQPA considerations)	Acute Population Adjusted Dose (aPAD)aPAD = NOAEL/UF= 20/300 = 0.07 mg/kg bwt/day	
Chronic Dietary	NOAEL = 2.5; LOAEL = 6.2	Decreased body weight gain in males, and inflammatory foci in kidneys of female rats in a chronic toxicity/ carcinogenicity study.	2-year rat (oral)
	UF = 300: 10X inter- and 10X intra and 3x FQPA factor for all population subgroups	Chronic Population Adjusted Dose (cPAD) cPAD = NOAEL/UF = 2.5/300 = 0.008 mg/kg bwt/day	
Short, intermediate-Term (1–7 days) Occupational/Residential	Dermal NOAEL =20.0; LOAEL =60.0 (Dermal absorption rate = 25%)	Increased numbers of resorption and percent incidence of postimplantation loss in rabbits.	Developmental - rabbit (oral)
		MOE = 300	
Intermediate-Term (one week to several months) Occupational/ Residential	Dermal NOAEL = 20.0; LOAEL = 60.0 (Dermal absorption rate = 25%)	Increased numbers of resorption and percent incidence of postimplantation loss in rabbits. MOE = 300	Developmental - rabbit (oral)
Long-Term	Dermal NOAEL = 2.5; NOAEL = 6.2 (Systemic) Dermal absorption rate = 25%	Decreased body weight in male and inflammatory foci in the kidney of female rats in a chronic toxicity/ carcinogenicity study. MOE=300	2–year rat (oral)
All time periods	Inhalation: Short-Term: NOAEL = 0.44 µg/L = 0.12 mg/kg/day;LOAEL=6 µg/L	Decreases in body and thymus weights, hypothermia and clinical pathology in rats in a 28–day study (short-term) and behavioral effects in rats in a 90–day study (intermediate/ chronic). UF = 300	28–day rat inhalation study (short-term)
	Intermediate/Chronic: NOAEL = 0.09 µg/L = 0.024 mg/kg/ day;LOAEL=0.7 µg/L	The extrapolation method was used in converting the NOAEL from µg/L to mg/kg/day	90-day rat inhalation study (intermediate/chronic)
Cancer	Oral	Cyfluthrin is classified as a group E chemical. Carcinogenicity studies in rats and mice were negative.	

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.436) for the residues of cyfluthrin, in or on a variety of raw agricultural commodities. Existing tolerances for aspirated grain fractions (300 ppm), sorghum, grain (4 ppm); and meat and meat byproducts of cattle, goats, hogs, horses, and sheep (0.4 ppm for both meat and meat byproducts) are sufficient to cover residues resulting from the application of cyfluthrin under the emergency

exemption. The existing tolerance of 5.0 ppm for fat of cattle, goats, hogs, horses, and sheep is insufficient to cover residues resulting from section 18 use on stored grains; the time-limited tolerance of 6.0 ppm is therefore being established. While time-limited tolerances of 1.0 ppm for grapes and 1.5 ppm for raisins are required, no concentration of residues occurs in grape juice and a separate tolerance for that commodity is not required. For purposes of dietary risk assessment, residue data generated from residue field trials conducted at maximum application rate and minimum preharvest intervals were used, as were processing data for grapes. To assess secondary exposure from edible animal commodities, animal dietary burdens were calculated using mean field trial residues, adjusted to take into account percent of crop treated information, and applying appropriate processing factors for all feed items. Risk assessments were conducted by EPA to assess dietary exposures from cyfluthrin in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: anticipated residues and percent of crop treated refinements were used for existing tolerances; anticipated residues and 100% of crop treated were assumed for the proposed tolerances associated with section 18 uses on stored grains and grapes. Anticipated residues were also assumed for meat, milk, poultry and egg tolerances. This Tier 3 Monte Carlo analysis is considered partially to highly refined. Field trial residue distributions were assumed for those foods identified by EPA as single-serving commodities. For those foods considered to be blended or processed, mean field trial residues were calculated, substituting the full limit of detection (LOD) for those samples for which residues were reported below the LOD.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: field trial residues and percent of crop treated refinements were used for the existing tolerances; anticipated residues and 100% of crop treated were assumed for the section 18 uses on stored grains and grapes. Anticipated residues were also assumed for meat, milk, poultry and egg tolerances. This Tier 3 analysis is considered partially to highly refined.

iii. *Cancer.* Cyfluthrin has been classified as a not likely human carcinogen (Group E chemical). A cancer dietary risk assessment is not required.

iv. *Anticipated residue and percent crop treated information.* Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated (PCT) as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used percent crop treated (PCT) information as shown in the following Table 2:

TABLE 2.—PERCENT OF CROP TREATED ESTIMATES FOR ACUTE AND CHRONIC RISK ASSESSMENT

Site	Percent of Crop Treated	
	Weighted Average (Chronic)	Estimated Maximum (Acute)
Corn	1	3
Alfalfa	1	1
Orange	5	13
Sorghum	1	1
Sweet Corn	3	6
Tomato	3	5

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the

data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which cyfluthrin may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for cyfluthrin in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of cyfluthrin. Cyfluthrin is poorly mobile and moderately persistent, and will remain sorbed to the soil for weeks following treatment. This suggests little potential to leach and contaminate groundwater, but high potential for transport to surface water via particulate run-off during rain events.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/ EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to cyfluthrin they are further discussed in the aggregate risk sections below.

Based on the PRZM/EXAMS and SCI-GROW models the estimated environmental concentrations (EECs) of cyfluthrin for acute exposures are estimated to be 5.49 parts per billion (ppb) for surface water and 0.006 ppb for ground water. The EECs for chronic exposures are estimated to be 2.18 ppb for surface water and 0.006 ppb for ground water. Because the Tier II PRZM/EXAMS exposure estimates exceed the solubility of cyfluthrin in water, EPA used the value of 1.2 ppb, the solubility of cyfluthrin in water, as the acute and chronic EEC for the surface water drinking water assessment. This value represents that maximum concentration of cyfluthrin that would be found in surface water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Cyfluthrin is currently registered for use on the following residential non-dietary sites: residential lawn and gardens, inside households, carpets, and as a termiticide. The termite control is achieved by establishing a continuous chemical barrier between the wood and the termite colonies in the soil. Like many other termite control chemicals, cyfluthrin is normally applied to the entire surface of soil or other substrate to be covered by the slab before the construction, or applied under the slab after the construction. The potential of dermal exposure is not expected. However, some termite control chemicals applied to the soil may penetrate house foundation to become a source for emission inside of the house. Consequently, short-term and intermediate-term as well as chronic exposures via inhalation route may occur. However, the vapor pressure of cyfluthrin is 3.3×10 E-8 Torr which indicates that the amount of emission from this chemical is extremely limited. For this reason, the potential of inhalation exposure is also very limited. Based on these considerations, residential risk assessment was not conducted for the termiticide use.

As mentioned above, cyfluthrin is also registered for use on residential lawns and carpets (fogger). Under current Office of Pesticide Programs' (OPP) guidelines, these uses do not present a chronic exposure scenario; because exposure to cyfluthrin may occur as a result of inhalation or contact from indoor and outdoor uses, these uses do constitute a short- and/or intermediate-term exposure scenario. A residential exposure assessment for those uses of cyfluthrin was conducted in conjunction with the EPA's risk assessment supporting the extension of tolerances for synthetic pyrethroids. The exposure data (in mg/kg/day) from this assessment are summarized in the following tables 3 and 4:

TABLE 3.—EXPOSURE ASSESSMENT DATA FROM CYFLUTHRIN USE ON LAWNS

Scenario	Individual	Inhalation	Dermal	Oral
Lawn Application	Adult	not conducted	not conducted	not conducted
Post-Application Lawn	Adult	1.16E-05	1.39E-03	not conducted
Post-Application Lawn	Child (1–6)	2.78E-05	2.63E-03	2.85E-04
Post-Application Lawn	Infant (<1)	3.56E-05	2.72E-03	3.03E-04

This product for lawns is a restricted use pesticide, and therefore, required to be applied by professional lawn care operators only. Thus, from the applicator perspective, this lawn scenario is considered out of EPA's

scope for purposes of residential exposure.

TABLE 4.—EXPOSURE ASSESSMENT DATA FROM CYFLUTHRIN USE ON CARPET

Scenario	Individual	Inhalation	Dermal	Oral
Carpet (fogger) Application	Adult	not conducted	8.84E-03	not conducted
Post-Application Carpet	Adult	3.40E-05	1.63E-03	not conducted
Post-Application Carpet	Child (1-6)	8.56E-06	4.20E-03	3.60E-04
Post-Application Carpet	Infant (<1)	1.04E-05	4.65E-03	3.84E-04

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether cyfluthrin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, cyfluthrin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that cyfluthrin has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

C. Safety Factor for Infants and Children

1. *Safety factor for infants and children*—i. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Developmental toxicity studies.* In the rat developmental study, neither a maternal LOAEL nor a developmental LOAEL was observed. The maternal NOAEL was >10 mg/kg/day (the highest dose tested), as was the developmental NOAEL. The previously conducted range finding study supported the dose selection which was used in the developmental study, and the rat study is classified as an Acceptable guideline. In the rabbit developmental study, the maternal LOAEL was 60 mg/kg/day, based on decreased body weight gain and food consumption during the dosing period. The maternal NOAEL was 20 mg/kg/day. The developmental LOAEL was 60 mg/kg/day, based on increased numbers of resorptions and percent incidence of postimplantation loss. The developmental NOAEL is 20 mg/kg/day.

Two rat developmental toxicity studies via the inhalation route of exposure were also conducted. In the first study, maternal effects were observed at 4.7 mg/M^3 and above, and effects in the pups were observed at 1.1 mg/M^3 and above. At 1.1 mg/M^3 and above, a dose-related increase in the incidence of runts and skeletal anomalies in the sternum were observed. At 4.7 mg/M^3 and above, increases in post-implantation losses and decreases in pup weights were observed. At 23.7 mg/M^3, increased incidences of late embryonic deaths and in skeletal anomalies in the extremities, pelvis and skull were observed as well as microphthalmia. The maternal NOAEL is 1.1 mg/M^3 and the maternal LOAEL is 4.7 mg/M^3, based on reduced motility, dyspnea, piloerection, ungroomed coats and eye irritation. The developmental NOAEL is 0.59 mg/M^3 and the developmental LOAEL is 1.1 mg/M^3, based on increases in the incidence of runts and skeletal anomalies in the sternum (1.1 mg/M^3 and above), increases in post-implantation losses and decreases in pup weights (4.7 mg/M^3 and above), and increased incidences of late embryonic deaths, in skeletal anomalies in the extremities, pelvis and skull and in microphthalmia (23.7 mg/M^3).

In the second study, the maternal NOAEL and LOAEL were < 0.46 mg/M^3, based on decreased body weight gain and reduced relative food efficiency. The developmental NOAEL was 0.46 mg/M^3 and the developmental LOAEL was 2.55 mg/M^3, based on reduced fetal and placental weight, and reduced ossification in the phalanx, metacarpals, and vertebrae.

iii. *Reproductive toxicity study.* In the 3-generation rat reproduction study, the LOAEL for parental toxicity was 22.5 mg/kg/day, based on decreased body weight gains; the NOAEL was 7.5 mg/kg/day. The LOAEL for reproductive toxicity was 7.5 mg/kg/day based on decreased viability and lactational indices and decreased pup body weight gains. The NOAEL was 2.5 mg/kg/day.

iv. *Prenatal and postnatal sensitivity.* There are no data gaps for reproductive and developmental toxicity studies. Evidence of increased sensitivity of young rats following pre- and/or post-natal exposure to cyfluthrin was observed in the three-generation reproduction study in rats. There was suggestive sensitivity of rats to *in utero* exposure based on bradypnea seen in dams in the developmental inhalation studies. In addition, the reproductive NOAEL of 2.5 mg/kg/day and the LOAEL of 7.5 mg/kg/day established in the three-generation reproduction study in rats are identical to the systemic NOAEL/LOAEL of 2.5/7.5 mg/kg/day established in the chronic toxicity/carcinogenicity study in rats. This NOAEL (2.5 mg/kg/day) and a UF of 100 was used in deriving the RfD (0.025 mg/kg/day) and the RfD does not provide protection for infants and children.

v. *Conclusion.* There is a complete toxicity database for cyfluthrin and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. Based on the considerations above, EPA determined that the tenfold FQPA safety factor should be replaced with an uncertainty factor of three for acute,

short- and intermediate-term, and chronic risk assessments. While evidence of increased sensitivity of young rats following pre- and/or post-natal exposure to cyfluthrin was observed in the three-generation reproduction study in rats, an uncertainty factor of 3 was selected because of the lack of severity of effects (reduced body weight gain in males in chronic toxicity study and decreased body weight gain in parental animals in the reproduction study) and the availability of acceptable reproduction (rat) and developmental (rats and rabbits) toxicity studies.

D. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + chronic non-dietary, non-occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to cyfluthrin in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of cyfluthrin on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to cyfluthrin at the 99.9th percentile will occupy 59% of the aPAD for the U.S. population, 28% of the aPAD for females age 13–50 years, 89% of the aPAD for infants and 80% of the aPAD for children aged 1 through 6 years. In addition, despite the potential for acute dietary exposure to cyfluthrin in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of cyfluthrin in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO CYFLUTHRIN

Population Subgroup	aPAD (mg/kg/day)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
U.S. population	0.07	59	1.2	0.006	1,000
All infants < 1 yr.	0.07	89	1.2	0.006	1500
Children 1–6 yrs.	0.07	80	1.2	0.006	140
Female 13–50 yrs.	0.07	28	1.2	0.006	80

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to cyfluthrin from food will utilize 30% of the cPAD for the U.S. population, 26% of the cPAD for infants < 1 yr. and 73% of the cPAD for children 1 through 6 years. Based on the use pattern, chronic residential exposure to residues of cyfluthrin is not expected. In addition, despite the potential for chronic dietary exposure to cyfluthrin in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of cyfluthrin in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 6:

TABLE 6.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO CYFLUTHRIN

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.008	30	1.2	0.006	200
All infants < 1 yr.	0.008	26	1.2	0.006	79
Children 1–6 yrs.	0.008	73	1.2	0.006	22

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Cyfluthrin is currently registered for uses that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for cyfluthrin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 1,500 for adults, 1,400 for children 1 through 6 years old, and 1,600 for infants < 1 year old. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of cyfluthrin in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 7:

TABLE 7.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO CYFLUTHRIN

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
Adult (male)	1,500	300	1.2	0.006	1,900
Adult (female)	1,500	300	1.2	0.006	1,600
Child 1–6 yrs.	1,400	300	1.2	0.006	530
Infant < 1 yr.	1,600	300	1.2	0.006	540

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level).

Cyfluthrin is currently registered for use(s) that could result in intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and intermediate-term exposures for cyfluthrin.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 460 for adults, 530 for children 1 through 6, and 470 for infants < 1 year. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, intermediate-term DWLOCs were calculated and compared to the EECs for chronic exposure of cyfluthrin in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 8:

TABLE 8.— AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE-TERM EXPOSURE TO CYFLUTHRIN

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Intermediate-Term DWLOC (ppb)
Adult (male)	460	300	1.2	0.006	800
Adult (female)	460	300	1.2	0.006	690
Children 1–6 yrs.	530	300	1.2	0.006	290
Infants < 1 yr.	470	300	1.2	0.006	240

5. *Aggregate cancer risk for U.S. population.* Cyfluthrin has been classified as a not likely human carcinogen (Group E chemical). A cancer dietary risk assessment is not required.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to cyfluthrin residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas/liquid chromatography with an electron capture detector) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no Codex tolerances established for cyfluthrin on grapes, raisins, or grains. Nor have any tolerances been established by Canada or Mexico for cyfluthrin on grapes, raisins, or grains (of barley, oat, or wheat).

VI. Conclusion

Therefore, the tolerances are established for residues of cyfluthrin, cyano[4-fluoro-3-phenoxyphenyl]-methyl-3-[2,2-dichloroethenyl]-2,2-

dimethyl-cyclopropanecarboxylate, in or on grape at 1.0 ppm; grape, raisin at 1.5 ppm; grain of barley, oat, and wheat at 2.0 ppm; and fat of cattle, goat, hog, horse, and sheep at 6.0 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301126 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 16, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential 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. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301126, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes time limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low- Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the

Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations 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." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule."

IX. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 3, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.436 is amended by adding paragraph (b) to read as follows:

§ 180.436 Cyfluthrin; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for residues of the insecticide cyfluthrin, cyano[4-fluoro-3-phenoxyphenyl]-methyl-3-[2,2-dichloroethenyl]-2,2-dimethyl-cyclopropanecarboxylate in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. These tolerances will expire and are revoked on the dates specified in the following table.

Commodity	Parts per million	Expiration/revocation date
Barley, grain	2.0	6/30/03
Cattle, fat	6.0	6/30/03
Goat, fat	6.0	6/30/03
Grape	1.0	6/30/03
Grape, raisin	1.5	6/30/03
Hog, fat	6.0	6/30/03
Horse, fat	6.0	6/30/03
Oat, grain	2.0	6/30/03
Sheep, fat	6.0	6/30/03
Wheat, grain	2.0	6/30/03

* * * * *

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DEPARTMENT OF DEFENSE

Defense Logistics Agency

48 CFR Parts 5433 and 5452

DLA Acquisition Directive: Alternative Dispute Resolution

AGENCY: Defense Logistics Agency (DLA), Defense.

ACTION: Final rule.

SUMMARY: This final rule adds a new provision to DLA solicitations concerning the use of alternative dispute resolution (ADR). The purpose is to establish ADR as the initial dispute resolution method, except for certain circumstances, to increase cooperative problem solving and reduce litigation. The provision is optional for offerors; however, if they agree to the provision, both the contractor and DLA will be committed to use of ADR except in limited circumstances. Increased use of ADR is consistent with the Administrative Dispute Resolution Act, the Federal Acquisition Regulation (FAR), and Departmental policy.

EFFECTIVE DATE: May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Massaro, Procurement Analyst, Defense Logistics Agency, DLA/J–336, at (703) 767–1366, or via email to mary_massaro@hq.dla.mil.

SUPPLEMENTARY INFORMATION:

A. Background

DLA is pursuing several initiatives to increase the use of ADR in resolving contract disputes. One way to increase use of ADR is for the parties to agree, as part of the contract, that they will use ADR before initiating litigation. This type of approach is used by DoD in partnering agreements and Agency-contractor ADR pacts.

The provision provides a vehicle for both parties to agree to use ADR. Offerors can opt out of the provision by checking the box if they do not want it in their contract in the event of award. Offerors can also propose alternate wording to tailor the language while retaining the concept.

A proposed rule was published in the **Federal Register** on May 16, 2000. Sixteen commenters submitted comments. Changes were made to the proposed rule to clarify or simplify the language, and to reference existing FAR and DLA requirements. The language of the final rule, as revised, appears below.

B. Regulatory Flexibility Act

This final rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. An initial regulatory flexibility analysis was not performed.

C. Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements that require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Parts 5433 and 5452

Government procurement.

For the reasons set forth above, the Defense Logistics Agency amends 48 CFR Chapter 54 as follows:

1. Part 5433 is added to read as follows:

PART 5433—PROTESTS, DISPUTES AND APPEALS

Authority: 10 U.S.C. Chapter 137.

5433.214. Alternative Dispute Resolution (ADR).

The contracting officer shall insert the provision in 5452.233 in all solicitations unless the conditions at FAR 33.203(b) apply.

PART 5452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. The authority citation for Part 5452 continues to read as follows:

Authority: 10 U.S.C. Chapter 137.

3. Part 5452 is amended by adding solicitation provision 5452.233–9001 to read as follows:

5452.233–9001 Disputes: Agreement to Use Alternative Dispute Resolution (ADR).

As prescribed in 5433.214, insert the following provision:

Disputes: Agreement to Use Alternative Dispute Resolution (ADR) (Apr 2001)—DLAD

(a) The parties agree to negotiate with each other to try to resolve any disputes that may arise. If unassisted negotiations are unsuccessful, the parties will use alternative dispute resolution (ADR) techniques to try to resolve the dispute. Litigation will only be considered as a last resort when ADR is unsuccessful or has been documented by the party rejecting ADR to be inappropriate for resolving the dispute.

(b) Before either party determines ADR inappropriate, that party must discuss the use of ADR with the other party. The documentation rejecting ADR must be signed by an official authorized to bind the contractor (see FAR 52.233–1), or, for the Agency, by the contracting officer, and approved at a level above the contracting officer after consultation with the ADR Specialist and with legal counsel. Contractor personnel are also encouraged to include the ADR Specialist in their discussions with the contracting officer before determining ADR to be inappropriate.

(c) If you wish to opt out of this clause, check here [ ]. Alternate wording may be negotiated with the contracting officer.

William J. Kenny,

Executive Director, Logistics Policy and Acquisition Management.

[FR Doc. 01–12450 Filed 5–16–01; 8:45 am]

BILLING CODE 3620–01–M

Proposed Rules

Federal Register
Vol. 66, No. 96
Thursday, May 17, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–19–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–50 and CF6–80C2 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to General Electric Company CF6–50 and CF6–80C2 turbofan engines. This proposal would require replacement of certain existing CF6–50 and CF6–80C2 shrouds with new design shrouds. This proposal is prompted by 37 low pressure turbine (LPT) uncontained events on the CF6–50 and 24 on the CF6–80C2 engine models since 1993, and the development and certification of newly designed shrouds that will improve LPT containment capability. The actions specified by the proposed AD are intended to prevent uncontained engine failure and possible airplane damage.

DATES: Comments must be received by July 16, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–19–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ane-adcomment@faa.gov". Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The service information referenced in the proposed rule may be obtained from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone: (513) 672–8400; fax: (513) 672–8422. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Karen Curtis, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7192, fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NE–19–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–19–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

Since 1993, the General Electric CF6 turbofan engine has experienced a number of low pressure turbine (LPT) failures in which debris from the engine has escaped from the engine case and nacelle. The engine shroud is part of the containment system intended to prevent such debris from an LPT failure from threatening the aircraft. For the CF6–50 engine model, there have been 16 such events where the debris escaped the engine case, 12 where the debris escaped both the case and nacelle, and nine where the debris escaped the case and nacelle and impacted the aircraft. The CF6–80C2 has experienced 16 events where the debris escaped the engine case, six where the debris escaped the case and nacelle, and two where the debris impacted the aircraft.

Many different upstream failures have led to the secondary breakup and separation of LPT blades, and resulted in low energy LPT case penetrations. High pressure turbine (HPT) blade failures, HPT nozzle failures, and fan mid shaft separations due to high pressure compressor airduct failures have been the leading causes for uncontained LPT failures for these engine models. In addition, multiple shroud repairs can lead to reduced shroud backsheet thickness and result in reduced containment system capability.

The manufacturer has developed, and the FAA has certified, newly designed shrouds that will improve LPT containment capability and enhance engine safety. Although the manufacturer and the FAA have also designed and certified design improvements to address the known upstream failure modes, not all such failure modes can be anticipated and therefore improved LPT containment capability is necessary to protect the airplane from debris from an LPT failure, and enhance safety for these engine models.

This proposal would require replacement of certain existing CF6–50 and CF6–80C2 shrouds with new design shrouds.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of GE Aircraft

Engines Service Bulletin (GEAE SB) CF6–80C2 S/B 72–1006, dated April 11, 2001 and GEAE SB CF60–50 S/B 72–1170, dated May 7, 1999, that specify part numbers and procedures for the removal and replacement of the shrouds.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other General Electric Company CF6–50 and CF6–80C2 turbofan engines of the same type design, the proposed AD would require replacement of certain existing CF6–50 and CF6–80C2 shrouds with new design shrouds at the next shroud piece part exposure, but no later than December 31, 2006. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Economic Impact

There are approximately 5,055 GE CF6–50 and CF6–80C2 turbofan engines of the affected design in the worldwide fleet. The FAA estimates that 1,106 engines installed on airplanes of U.S. registry would be affected by this proposed AD. Because this proposal calls for the replacement of shrouds at piece part exposure, the FAA does not expect that additional labor costs will be accrued beyond that normally required to remove the existing shroud. New shrouds will cost approximately $63,250 for the CF6–50 engines, and $87,020 for the CF6–80C2 engines. Based on these figures, the total cost to retrofit all installed US registered engines is estimated to be $85,096,038 over a five year period, or $17,019,207 annually.

Regulatory Impact

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Company: Docket No. 2001–NE–19–AD.

Applicability: This airworthiness directive (AD) is applicable to General Electric Company (GE) CF6–50 and CF6–80C2 turbofan engines These engines are installed on, but not limited to DC–10–15, DC–10–30, MD11, 747, 767, A300 and A310 airplanes.

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

Compliance: Compliance with this AD is required as indicated, unless already done. To prevent uncontained engine failure and possible airplane damage, do the following:

(a) Remove existing Stage 2, 3 and 4 low pressure turbine (LPT) CF6–80C2 shrouds and replace with new design part numbers (P/N's) 2083M12G01, 2083M13G01, and 2083M14G01, respectively, in accordance with GE Aircraft Engines Service Bulletin (GEAE SB) CF6–80C2 S/B 72–1006, dated April 11, 2001, at the next shroud piece part exposure, but no later than December 31, 2006.

(b) Remove existing Stage 1, 2, 3 and 4 LPT CF6–50 shrouds and replace with new design P/N's 1822M35G01, 1822M36G01, 1822M36G02, and 1822M37G01, respectively, in accordance with GEAE SB CF6–50 S/B 72–1170, dated May 7, 1999, at the next shroud piece part exposure, but no later than December 31, 2006.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

(d) Special flight permits may be issued in accordance §§ 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 Burlington, Massachusetts, on May 11, 2001.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–12425 Filed 5–16–01; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3 and 170

RIN Number: 3038–AB84

Notice Registration as a Futures Commission Merchant or Introducing Broker for Certain Securities Brokers or Dealers

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: In accordance with certain provisions of the Commodity Futures Modernization Act of 2000 ("CFMA"), the Commodity Futures Trading Commission ("Commission") is proposing to amend Rule 3.10, which specifies the information that various applicants for registration must file. The amendment would provide for notice registration as a futures commission merchant ("FCM") or introducing broker ("IB"), as applicable, in the case of a broker or dealer ("BD") registered with the Securities and Exchange Commission ("SEC") that, among other things, limits its involvement with commodity futures contracts to security futures products. In accordance with

certain other provisions of the CFMA, the Commission is proposing to amend Rule 170.15, which requires each registered FCM to be a member of a registered futures association. The amendment would exempt notice-registered BDs from this requirement.

DATES: Comments must be received by June 18, 2001.

ADDRESSES: Comments on the proposed rule amendments may be sent to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to "Notice Registration as a Futures Commission Merchant or Introducing Broker for Certain Securities Brokers or Dealers."

FOR FURTHER INFORMATION CONTACT: Barbara S. Gold, Assistant Chief Counsel, or Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, (202) 418–5450, electronic mail: bgold@cftc.gov, or lpatent@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, the CFMA was signed into law.[1] Among other things, the CFMA removed the restriction in the Commodity Exchange Act ("CEA") on the trading of futures contracts on individual equity securities and narrow-based indices of equity securities.[2] Under the revised law, security futures products[3] may be traded on a designated contract market or on a registered derivatives transaction execution facility.[4]

Section 4d of the CEA provides that any person who engages in soliciting or accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility—e.g., for a security futures product—must be registered with the Commission as (1) an FCM, if it also accepts any money, securities, or property, or extends credit in lieu thereof, to margin, guarantee, or secure contracts, or (2) otherwise as an IB.[5] Section 4f(a)(1) of the CEA provides that application for registration as an FCM or IB "shall be made in such form and manner as prescribed by the Commission."[6] Pursuant to this authority, the Commission adopted Rule 3.10, which currently requires that an applicant for registration as an FCM or IB file a Form 7–R[7] along with a Form 1–FR–FCM or Form 1–FR–IB, as applicable.[8] In addition, Rule 170.15 requires that each person required to register as an FCM must become and remain a member of at least one registered futures association (i.e., NFA).

However, as a result of the CFMA, new Section 4f(a)(2) of the CEA now provides that notwithstanding Section 4f(a)(1), any BD that is registered with the SEC[9] shall be registered as an FCM or IB, as applicable, "effective contemporaneously with the submission of notice," if—

(A) the broker or dealer limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or registered derivatives transaction execution facility to security futures products;

(B) the broker or dealer files written notice with the Commission in such form as the Commission, by rule, may prescribe containing such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors;

(C) the registration of the broker or dealer is not suspended pursuant to an order of the Securities and Exchange Commission; and

(D) the broker or dealer is a member of a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934.

Moreover, new Section 4f(a)(4)(C)(i) of the CEA provides that a BD that is registered as an FCM pursuant to notice registration shall not be required to become a member of a registered futures association. Accordingly, by this **Federal Register** release, the Commission is proposing to amend Rule 3.10 to provide for FCM and IB notice registration thereunder and to amend Rule 170.15 to exclude from its scope BDs notice-registered as FCMs.[10]

II. Proposed Amendments

A. Rule 3.10

Rule 3.10 currently is structured as follows: paragraph (a), "Application for registration," contains the information that an application for registration under the rule must contain; paragraph (b), "Duration of registration," generally provides that registration under paragraph (a) will continue until withdrawal or revocation; paragraph (c),

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[1] Pub. L. No. 106–554, 114 Stat. 2763. The text of the CFMA may be accessed on the Internet at http://agriculture.house.gov/txt5660.pdf.

[2] See Section 251(a) of the CFMA. This trading previously had been prohibited by Section 2(a)(1)(B)(v) of the CEA.

[3] The term "security futures product" is defined in Section 1a(32) of the CEA to mean "a security future or any put, call, straddle, option, or privilege on any security future." The term "security future" is defined in Section 1a(31) of the CEA. Because the CFMA also provides that options on security futures cannot be traded until at least December 21, 2003, security futures are the only security futures product that may be available for trading during the next 31 months.

[4] The CFMA also specifically prescribes certain dates on which security futures trading can commence. Specifically, principal-to-principal transactions between institutions cannot commence until August 21, 2001 and retail transactions cannot commence until December 21, 2001. Both starting dates are conditioned upon the registration of a futures association (i.e., National Futures Association ("NFA")) as a national securities association under the Securities Exchange Act of 1934 ("'34 Act"). Section 202(a) of the CFMA; Section 6(g)(5) of the '34 Act.

[5] See Sections 1a(20) and (23) of the CEA, which define the terms "futures commission merchant" and "introducing broker," respectively.

[6] Prior to the enactment of the CFMA, this provision was found in Section 4f(a) of the CEA. The CFMA amended Section 4(f) by redesignating paragraph (a) as paragraph (a)(1) and by adding new paragraphs (a)(2) and (a)(3) (Section 252(b)(2) of the CFMA) and (a)(4) (Section 252(c) of the CFMA).

[7] Rule 3.10(a)(1)(i). The Form 7–R, which requires general information such as a list of the applicant's principals and the applicant's disciplinary history, must be completed and filed with NFA in accordance with the instructions thereto. NFA is registered with the Commission as a registered futures association pursuant to Section 17 of the CEA. By Rule 3.2 and various orders issued by the Commission, the Commission has delegated to NFA the authority to register, among other persons, FCMs and IBs. Commission rules referred to herein are found at 17 CFR Ch. I (2001).

[8] Rule 3.10(a)(1)(ii). The Form 1–FR (–FCM or –IB) includes detailed financial statements and schedules that display the applicant's financial condition. Where the applicant is registered with the SEC as a BD, it may accompany its Form 7–R with a copy of its Financial and Operational Combined Uniform Single Report under the '34 Act, Part II or Part IIA. See Rule 1.10(h).

[9] Because the CFMA speaks in terms of a "broker or dealer," the term "BD" as used in this release applies equally to a broker, a dealer or a person registered as both a broker and a dealer.

[10] Section 4k(1) of the CEA generally requires each person who is an associated person ("AP") of an FCM or IB to register as such. Rule 3.12 generally requires an applicant for registration as an AP to file a Form 8–R, which requires basic biographical information, along with a sponsor's certification. It is not necessary for the Commission to similarly propose notice registration under Rule 3.12 for the APs of those FCMs and IBs who would be subject to the proposed notice registration under Rule 3.10, because the CFMA exempts these APs from registration altogether. Specifically, Section 252(d) of the CFMA amends Section 4(k) of the CEA to provide that:

Any associated person of a broker or dealer that is registered with the Securities and Exchange Commission, and who limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery or any options on such a contract, on or subject to the rules of any contract market or registered derivatives transaction execution facility to security futures products, shall be exempt from [Section 4k(1)] of this Act and the rules thereunder.

"Exemption from registration for certain persons," provides an exemption from registration as an FCM for certain persons; and paragraph (d), "Annual filing," prescribes an annual review of a printout of registration information on file with NFA for persons registered pursuant to paragraph (a).

The Commission is proposing to amend Rule 3.10 in several ways. First, paragraph (a)(1)(i) would be revised to alert applicants for registration that there is an alternative registration procedure under new Rule 3.10(a)(3). Second, paragraph (a)(3) would be added. Captioned "Notice registration as a futures commission merchant or introducing broker for certain securities brokers or dealers," it would add an exception to the FCM and IB registration requirements of Rule 3.10(a) for BDs who meet the criteria of new Section 4f(a)(2) of the CEA. Registration under paragraph (a)(3) would be made "by following such procedures for notice registration as may be specified" by NFA. This registration would be effective upon the filing of the notice prescribed by NFA, as mandated by Section 252(b)(2) of the CFMA. Finally, paragraph (d) would be amended to relieve these notice registrants from the annual update requirement.

The Commission's proposal is consistent with the Commission's previous delegation of registration authority to NFA under Rule 3.2 and through various Commission orders. The Commission believes that its proposal is also consistent with Section 125 of the CFMA, which requires the Commission to report to Congress later this year on a study of the CEA and the Commission's rules, regulations and orders governing the conduct of persons required to be registered under the CEA. One area that the study must identify is "the regulatory functions the Commission currently performs that can be delegated to a registered futures association * * * and the regulatory functions that the Commission has determined must be retained and the reasoning therefor."

As referred to above, notice registrant FCMs and IBs are exempt from NFA membership.[11] Although the Commission cannot require NFA to perform registration functions for persons that are not NFA members,[12] the Commission may authorize NFA to perform any registration function.[13] Commission staff have discussed this matter with NFA, and NFA has agreed to undertake the function of processing notice registrations for BDs as discussed herein. If the Commission adopts these amendments to Rule 3.10, it expects to issue an order authorizing NFA to perform this function.

B. Rule 170.15

Section 17(m) of the CEA states that—

> [n]otwithstanding any other provision of law, the Commission may approve rules of futures associations that, directly or indirectly, require persons eligible for membership in such associations to become members of at least one such association upon a determination by the Commission that such rules are necessary or appropriate to achieve the purposes and objectives of [the CEA].

Pursuant to this provision, the Commission adopted Rule 170.15, which provides that each person required to register as an FCM must become and remain a member of at least one registered futures association.[14] However, and as noted above, because new section 4f(a)(4)(C)(i) of the CFMA exempts BDs who notice-register as FCMs from the requirement to become a member of a registered futures association, the Commission is proposing to amend Rule 170.15. The amendment would add a provision to exempt FCMs registered in accordance with Rule 3.10(a)(3) from the requirement to become and remain a member of a registered futures association.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601–611 (1994), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rule amendments discussed herein would affect persons seeking to be registered under notice registration procedures as an FCM or IB pursuant to new Section 4f(a)(2). The Commission has previously established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.[15] The Commission previously determined that registered FCMs are not small entities for the purpose of the RFA.[16] With respect to IBs, the Commission has stated that it would evaluate within the context of a particular rule proposal whether all or some affected IBs would be considered to be small entities and, if so, the economic impact on them of any rule.[17]

These amendments would provide exemptive relief from provisions of the Commission's regulations that otherwise would be applicable to such persons. Consequently, the Commission believes that the adoption of these rule amendments would reduce the burden of compliance by persons seeking to be registered as an FCM or IB. Accordingly, the Acting Chairman of the Commission hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed rule will not have a significant economic impact on a substantial number of small entities. Nonetheless, the Commission specifically requests comment on the impact this proposed rule may have on small entities.

B. Paperwork Reduction Act

This proposed rulemaking contains information collection requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA").[18] The Commission has submitted a copy of this part to the Office of Management and Budget ("OMB") for its review.

Collection of Information

Registration of future commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and leverage transaction merchants, OMB Control Number 3038–0023.

The burden associated with the proposed addition of Rule 3.10(a)(3) is estimated to be 1,000 hours, which will result from the notice registration as an FCM or IB of various persons who currently are registered as BDs with the SEC.

The estimated burden of the proposed new rule was calculated as follows:

Estimated number of respondents: 5,000.

Reports annually by each respondent: 1.

Total annual Responses: 5,000.

Estimated average Number of Hours Per Response: 2.

Estimated Total Number of Hours of Annual Burden in Fiscal Year: 1,000.

There are no paperwork burdens associated with the proposed amendments to Rule 3.10(d), which would clarify that the annual filing prescribed therein does not apply to notice-registered BDs, or to Rule 170.15, which would exclude notice-registered BDs from the requirement that each registered FCM must become and remain a member of NFA.

Organizations and individuals desiring to submit comments on the

[11] Section 252(c) of the CFMA; Section 4f(a)(4)(C) of the CEA.

[12] See Section 17(o)(1) of the CEA.

[13] Sections 8a(10) and 17(o)(2) of the CEA.

[14] NFA is the only registered futures association.

[15] 47 FR at 18618–21 (April 30, 1982).

[16] 47 FR at 18619–20.

[17] 47 FR at 18618, 18620.

[18] 44 U.S.C. 3501 *et seq.*

information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235 New Executive Building, Washington, DC 20503, Attention: Desk Officer for the Commodity Futures Trading Commission.

The Commission considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- Evaluating the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- 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.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Commission on the proposed regulations.

Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5160.

C. Cost-Benefit Analysis

Section 119 of the CFMA amended Section 15 of the CEA to require that the Commission, before promulgating a regulation under the CEA or issuing an order, consider the costs and benefits of the Commission's action in light of five criteria.[19] The main considerations relevant to this proposal are the first two considerations set forth in the CEA, "protection of market participants and the public" and "efficiency, competitiveness and financial integrity of the futures markets." The Commission believes that persons who are registered as BDs with the SEC are appropriate subjects for notice registration where their futures-related activity is restricted to security futures products. The Commission also believes that these additional registrants may promote the efficiency and competitiveness of those futures markets on which security future products may be traded and that their presence as intermediaries in these markets may serve to promote the financial integrity of those markets. The Commission further notes that the CFMA specifically mandates that registered BDs be noticed-registered with the Commission as an FCM or IB.

[19] These considerations include: (A) protection of market participants and the public; (B) efficiency, competitiveness, and financial integrity of futures markets; (C) price discovery; (D) sound risk management practices; and (E) other public interest considerations.

List of Subjects

17 CFR Part 3

Brokers, Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 170

Authority delegations (Government agencies), Commodity futures.

For the reasons discussed in the preamble, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 3—REGISTRATION

1. The authority citation for part 3 continues to read as follows:

Authority: 5 U.S.C. 552, 552b; 7 U.S.C. 1a, 2, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6o, 6p, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, 23.

2. Section 3.10 is amended by revising paragraph (a)(1)(i), by adding a new paragraph (a)(3) and by revising the first sentence of paragraph (d), to read as follows:

§ 3.10 Registration of futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and leverage transaction merchants.

(a) *Application for registration.* (1)(i) Except as provided in paragraph (a)(3) of this section, application for registration as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant must be on Form 7–R, completed and filed with the National Futures Association in accordance with the instructions thereto.

* * * * *

(3) Notice registration as a futures commission merchant or introducing broker for certain securities brokers or dealers. (i) Any broker or dealer that is registered with the Securities and Exchange Commission may be registered as a futures commission merchant or introducing broker, as applicable, by following such procedures for notice registration as may be specified by the National Futures Association, if—

(A) The broker or dealer limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or registered derivatives transaction execution facility, to security futures products as defined in section 1a(32) of the Act;

(B) The registration of the broker or dealer is not suspended pursuant to an order of the Securities and Exchange Commission; and

(C) The broker or dealer is a member of a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934.

(ii) The registration will be effective upon the filing of the notice prescribed by the National Futures Association in accordance with the instructions thereto.

* * * * *

(d) Annual filing. Any person registered as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant in accordance with paragraph (a)(1) and (a)(2) of this section must file with the National Futures Association a Form 7–R, completed in accordance with the instructions thereto, annually on a date specified by the National Futures Association. * * *

PART 170—REGISTERED FUTURES ASSOCIATIONS

3. The authority citation for part 170 continues to read as follows:

Authority: 7 U.S.C. 6p, 12a and 21, unless otherwise noted.

Subpart C—Membership in a Registered Futures Association

4. Section 170.15 is revised to read as follows:

§ 170.15 Futures commission merchants.

(a) Except as provided in paragraph (b) of this section, each person required to register as a futures commission merchant must become and remain a member of at least one futures

association which is registered under section 17 of the Act and which provides for the membership therein of such futures commission merchant, unless no such futures association is so registered.

(b) The requirements of paragraph (a) of this section shall not apply to a futures commission merchant registered in accordance with § 3.10(a)(3) of this chapter.

Issued in Washington, DC on May 14, 2001 by the Commission.

Edward W. Colbert,

Deputy Secretary of the Commission.

[FR Doc. 01–12489 Filed 5–16–01; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. FHWA–2001–8846]

RIN 2125–AE83

Revision of the Manual on Uniform Traffic Control Devices; General Provisions, Markings, and Signals

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed amendments to the Manual on Uniform Traffic Control Devices (MUTCD); request for comments.

SUMMARY: The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, approved by the Federal Highway Administration, and recognized as the national standard for traffic control devices on all public roads. The purpose of this notice is to propose revised wording on the design and installation of traffic control devices, specifically accessible pedestrian signals, in the MUTCD.

This document proposes new text for the MUTCD in Part 1—General and Part 4—Signals. The proposed changes included herein are intended to revise supporting information and guidance relating to the decisionmaking process concerning accessible pedestrian signals.

DATES: Comments must be received on or before June 18, 2001.

ADDRESSES: Mail or hand deliver comments with the docket number that appears in the heading of this document to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590 or submit electronically at *http://dmes.dot.gov/submit*. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: For information regarding the notice of proposed amendments contact Mr. Ernest Huckaby, Office of Transportation Operations, Room 3408, (202) 366–9064, or Mr. Raymond Cuprill, Office of the Chief Counsel, Room 4230, (202) 366–0791, U.S. Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL 401, by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help. An electronic copy of this notice of proposed amendment may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara*.

Background

The MUTCD is available for inspection and copying as prescribed in 49 CFR part 7 on the FHWA's website at *http://mutcd.fhwa.dot.gov*. This notice is being issued to provide an opportunity for public comment on the desirability of proposed amendments to Section 1A.11 and to Section 4E.06 concerning accessible pedestrian signals. Based on the comments received and its own experience, the FHWA may issue a final rule concerning the proposed changes included in this notice.

This notice of proposed amendment is being published in response to several letters received by the U.S. Department of Transportation objecting to language in the text of the MUTCD summarized in the final rule published at 65 FR 78923 on December 18, 2000. The letters received by the U.S. Department of Transportation were written by the American Council of the Blind, the Association for Education and Rehabilitation of the Blind and Visually Impaired Division Nine—Orientation and Mobility, the National Committee on Uniform Traffic Control Devices, and Accessible Design for the Blind.

The letter from the National Committee on Uniform Traffic Control Devices (NCUTCD) discusses a meeting it held in January 2001 with representatives of various organizations that represent individuals with visual disabilities. During the meeting the attendees drafted text they believe would be more acceptable to pedestrians with visual disabilities and the organizations that represent them. However, the NCUTCD recommended one sentence of the draft text be deleted because it believed it may encourage a "do nothing" response by a traffic agency as opposed to conducting an engineering study of the request to install a traffic control device at a location.

The FHWA agrees with this position as Federal, State, and local agencies are required to comply with the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 1201 *et seq.*). Title II of the ADA of 1990 requires that public entites not discriminate against people with disabilities. Subject to the provisions of Title II, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity. The FHWA believes that a traffic agency should review a request for pedestrian signals accessible to visually impaired persons in the same manner as it does all other requests to install a traffic control device. Also, the FHWA has the added requirement under the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*) and the ADA of 1990 of overseeing that recipients of Federal-aid funding comply with the laws and do not discriminate against people with disabilities.

The FHWA invites comments on the proposed new text for the last paragraph of the MUTCD Section 1A.11 and the first six paragraphs of the MUTCD Section 4E.06. The proposed changes are included in the following discussion:

Discussion of Proposed Amendments to Part 1—General

1. In Section 1A.11 Relation to Other Documents, the FHWA is proposing to add a new document in subparagraph U to paragraph 3 to read, " 'Accessible Pedestrian Signals,' A–37, U.S. Architectural and Transportation Barriers Compliance Board (The U.S. Access Board)." This new document would be a useful source of information for traffic engineers to use because it provides various techniques for making pedestrian signal information available to pedestrians with visual disabilities. The address for the U.S. Architectural and Transportation Barriers Compliance Board (The U.S. Access Board) would be added to page i of the MUTCD.

Discussion of Proposed Amendments to Part 4—Signals

1. In Section 4E.06, the FHWA proposes to revise paragraph 1 to read, "The primary technique that pedestrians who have visual disabilities use to cross streets at signalized intersections is to initiate their crossing when they hear the traffic in front of them stop and the traffic alongside them begin to move, corresponding to the onset of the green interval. This technique is effective at many signalized intersections. The existing environment is often sufficient to provide the information that pedestrians who have visual disabilities need to operate safely at a signalized intersection. Therefore, many signalized intersections will not require any accessible pedestrian signals." The FHWA is proposing to replace the phrase "the vast majority of" with "many" because "many signalized intersections" better represents the degree of effectiveness of the technique used by pedestrians who have visual disabilities to cross the street.

2. In Section 4E.06, the FHWA proposes to revise paragraph 2 to read, "If a particular signalized intersection presents difficulties for pedestrians who have visual disabilities to cross safely and effectively, an engineering study should be conducted that considers the safety and effectiveness for pedestrians in general, as well as the information needs of pedestrians with visual disabilities." The FHWA is proposing to delete text from this paragraph that suggested safety and effectiveness concerns for all pedestrians be examined first before considering any access issues for pedestrians with visual disabilities. The FHWA is proposing to use the term "engineering study" rather than "examination" or "review" to explain the general practice used for determining needed intersection improvements for road users, including all pedestrians. Engineering studies can examine numerous tools to assist pedestrians, including accessible pedestrian signals.

3. In Section 4E.06, the FHWA proposes to revise paragraph 4 to read, "Local organizations, providing support services to pedestrians who have visual and/or hearing disabilities, can often act as important advisors to the traffic engineer when consideration is being given to the installation of devices to assist such pedestrians. Additionally, orientation and mobility specialists or similar staff also might be able to provide a wide range of advice. The U.S. Access Board's Document A–37, 'Accessible Pedestrian Signals,' [1] provides various techniques for making pedestrian signal information available to persons with visual disabilities." The FHWA is proposing to replace "professionals" with "staff," because the term "professionals" could connote that a certification is necessary. The FHWA is proposing to add the sentence "The U.S. Access Board's Document A–37, 'Accessible Pedestrian Signals,' provides various techniques for making pedestrian signal information available to persons with visual disabilities' to the end of the paragraph. This reference was published in the NPA of December 30, 1999, at 64 FR 73612, 73670 under FHWA docket 99–6575, but inadvertently deleted from the final rule.

4. In Section 4E.06, the FHWA proposes to delete existing paragraphs 5 and 6. The FHWA proposes to delete these paragraphs because paragraph 4 covers the consideration of advice from organizations that represent individuals with disabilities. In addition, an engineering study, mentioned in paragraph 2, covers consideration of cost.

Rulemaking Analysis and Notices

The FHWA believes a 30-day comment period is sufficient for these proposed changes inasmuch as the issue has already been the subject of a notice-and-comment rulemaking (RIN 2125–AE71) and the proposed changes are in response to the aforementioned comments by the National Committee on Uniform Traffic Control Devices, organizations providing support services to pedestrians with visual disabilities, and others. It appears that the concerns indicated by the different organizations have been addressed in these proposed changes. The notice of the FHWA's intent to add a section on accessible pedestrian signals in the MUTCD was first published in a notice of proposed amendment on December 30, 1999 (RIN 2125–AE71). The FHWA provided an extensive opportunity for public comment and review by accepting comments on this issue for a period of 6 months until June 30, 2000. Because the public is very familiar with the issues, the FHWA believes a 30-day comment period would be sufficient. In addition, there are three national organizations, American Association of State Highway and Transportation Officials, Institute of Transportation Engineers and American Traffic Safety Services Association, that are in the process of printing the new MUTCD. Providing more than a 30-day comment period would be contrary to the public interest because it would also delay implementation of a massive publication effort and distribution of the MUTCD to traffic engineering practitioners. Since printing the MUTCD involves a large investment and they are aware of the possible changes to Section 4E.06, these national organizations would not like to print an MUTCD when such a significant change is pending. In addition, all of the concerned parties have expressed that they would be greatly concerned if the national organizations who plan to print the MUTCD do so with the current text of Section 4E.06. The FHWA believes that this is the most equitable and economic solution; and therefore, a comment period longer than 30-days would be contrary to public interest.

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

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

The FHWA has determined preliminarily that this action will not be

[1] "Accessible Pedestrian Signals," U.S. Access Board, August 1998, is available online at URL: *http://www.access-board.gov*. A single hardcopy may be obtained without charge by contacting the U.S. Access Board at (202) 272–5343 (voice) or (202) 272–5449 (TTY); or by writing to the Board at 1331 F Street, NW., Suite 1000, Washington, DC 20004–1111.

a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of U.S. Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal. The new standards and other changes proposed in this notice are intended to improve traffic operations and safety, and provide additional guidance, clarification, and optional applications for traffic control devices. The FHWA expects that these proposed changes will create uniformity and enhance safety and mobility at little additional expense to public agencies or the motoring public. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this proposed action on small entities. This notice of proposed amendment proposes revised wording on the design and installation of traffic control devices, specifically accessible pedestrian signals, in the MUTCD. The proposed changes are intended to improve traffic operations and safety, expand guidance, and clarify application of traffic control devices as it relates to accessible pedestrian signals. The FHWA hereby certifies that these proposed revisions would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1531 *et seq.*).

Executive Order 13132 (Federalism)

The FHWA has analyzed this proposed action in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999. This proposal amends the existing regulation to revise wording on the design and installation of traffic control devices, specifically accessible pedestrian signals, in the MUTCD. The FHWA has consulted with States and local governments and believes that the proposed changes will not increase direct cost compliance costs of States and local governments.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposal under Executive Order 13175, dated November 6, 2000, and believes that the notice of proposed amendment would not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. The proposed changes in this notice of proposed amendment revise guidance and supporting information, not standards, related to the decisionmaking process concerning whether or not to install accessible pedestrian signals. Therefore, a tribal summary impact statement is not required.

Executive Order 12372 (Intergovernmental Review)

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

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposed action does not contain a collection of information requirement for purposes of the PRA.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

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

Executive Order 12630 (Taking of Private Property)

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

National Environmental Policy Act

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

Regulation Identification Number

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

List of Subjects in 23 CFR Part 655

Design standards, Grant programs—Transportation, Highways and roads, Incorporation by reference, Signs, Traffic regulations.

(23 U.S.C. 101(a), 104, 109(d), 114(a), 217, 315, and 402(a); 23 CFR 1.32; and 49 CFR - 1.48(b))

Issued on: May 11, 2001.

Vincent F. Schimmoller,

Deputy Executive Director, Federal Highway Administration.

[FR Doc. 01–12426 Filed 5–16–01; 8:45 am]

BILLING CODE 4910–22–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE 054–1031b; FRL–6981–3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Nitrogen Oxides Budget Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Delaware for the purpose of establishing a nitrogen oxides (NO_x) allowance trading program for large electric generating and industrial units, beginning in 2003. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal

because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Comments must be received in writing by June 18, 2001.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Cristina Fernandez, (215) 814–2178, at the EPA Region III address above, or by e-mail at fernandez.cristina@epa.gov.

SUPPLEMENTARY INFORMATION: On November 17, 2000, the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a revision to its SIP to address the requirements of the NO_X SIP Call Phase I. The revision consists of the adoption of Regulation No. 39—Nitrogen Oxides Budget Trading Program. For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: May 8, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 01–12352 Filed 5–16–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–200108; IN121–1; FRL–6982–2]

Determination of Attainment of Ozone Standard by Louisville, Kentucky and Indiana, Area and Determination Regarding Applicability of Certain Reasonable Further Progress and Attainment Demonstration Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to determine that the Louisville moderate ozone nonattainment area (Louisville area) has attained the 1-hour ozone National Ambient Air Quality Standard (NAAQS). The Louisville area includes Jefferson County and portions of Bullitt and Oldham Counties, Kentucky, and Clark and Floyd Counties, Indiana. This proposed determination is based on three years of complete, quality-assured, ambient air monitoring data for the 1998 to 2000 ozone seasons that demonstrate that the area has attained the 1-hour ozone NAAQS. On the basis of this determination, EPA is also proposing to determine that State Implementation Plan (SIP) submissions for certain reasonable further progress (RFP) and attainment demonstration requirements, along with certain other related requirements of part D of Title 1 of the Clean Air Act (CAA) are no longer required for the Louisville area for so long as the area continues to attain the 1-hour ozone NAAQS. All previously-approved SIP revisions must continue to be implemented and enforced and are not affected by this action.

DATES: Written comments on EPA's proposed action must be received on or before June 18, 2001.

ADDRESSES: All comments should be addressed to: Allison Humphris, Environmental Scientist, Regulatory Planning Section, Air Planning Branch, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia, 30303. J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the air quality data and EPA's analysis are available at the following addresses for inspection during normal business hours: United States Environmental Protection Agency, Region 4, Air Planning Branch, Regulatory Planning Section, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. United States Environmental Protection Agency, Region 5, Air Programs Branch (AR–18J), Regulation Development Section, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Allison Humphris, Environmental Scientist, Regulatory Planning Section, Air Planning Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia, 30303, (404) 562–9030, (*humphris.allison@epa.gov*). Ryan Bahr, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–4366, (*bahr.ryan@epa.gov*).

SUPPLEMENTARY INFORMATION:

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I. Determination of Attainment

A. What Action is EPA Proposing to Take?

The EPA is proposing to determine that the Louisville area has attained the 1-hour ozone NAAQS. The Louisville area includes Jefferson County and portions of Bullitt and Oldham Counties, Kentucky, and Clark and Floyd Counties, Indiana. On the basis of this determination, EPA is also determining that certain requirements of part D of Title I of the CAA do not apply to the Louisville area. SIP submittals based on these requirements are no longer required so long as the Louisville area continues to attain the NAAQS. These requirements include RFP (see the general requirement of section 172(c)(2) and the more specific requirement of section 182(b)(1) for a plan that reduces volatile organic compound (VOC) emissions by 15%), attainment demonstration (see the general requirement of section 172(c)(1)) and the specific requirement of section 182(j) for a multi-state attainment demonstration) and contingency measures (see the general requirement of section 172(c)(9)). Making these sections inapplicable to the area means that the States are not required to

submit future SIP revisions related to the sections cited above regarding attaining the NAAQS. Furthermore, EPA would not be required to act on the planning SIPs that have been submitted and not yet approved. However, all previously-approved SIP revisions must continue to be implemented and enforced and are not affected by this action. In addition EPA will continue to process any submittals that have not yet been approved and revise the SIP to incorporate State- and locally-adopted rules and other legally-enforceable requirements which have helped the area come into attainment prior to the effective date for this rule. This will ensure that the rules the area has depended on for attainment are permanent and enforceable as part of the SIP.

B. Why is EPA Taking This Action?

The EPA proposes to make this determination for the Louisville area because complete, quality-assured, ambient air monitoring data for the 1998 to 2000 ozone seasons demonstrate that the 1-hour ozone NAAQS has been attained in the entire Louisville area. For ozone, an area may be considered attaining the 1-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.9 and appendix H, based on three complete, consecutive calendar years of quality-assured ambient monitoring data. A violation of the 1-hour ozone NAAQS occurs when the annual average number of expected exceedances at a monitoring site is greater than 1.0 per year, using conventional rounding techniques.

The calculation for expected exceedances in a three-year period is computed by averaging the three estimated exceedances (one for each of the three years) during this period. The calculation for the estimated exceedances takes into account not only the number of exceedances during a given ozone season, but also completeness of data, and days in the ozone season that can be assumed to be less than the level of the standard. An example calculation of estimated exceedances at the Charlestown monitor is given in section C. A daily exceedance occurs when the maximum hourly ozone concentration during a given day is greater than 0.12 parts per million (ppm), using conventional rounding techniques. Monitoring data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in EPA's Aerometric Information Retrieval System (AIRS). The monitors should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

The Commonwealth of Kentucky Natural Resources and Environmental Protection Cabinet (Cabinet) and the Indiana Department of Environmental Management (IDEM) submitted quality-assured ozone monitoring data to EPA for the 1998 to 2000 ozone monitoring seasons. Table 1 below summarizes these air quality data.

TABLE 1.—1-HOUR OZONE NAAQS EXCEEDANCES IN THE LOUISVILLE, KENTUCKY-INDIANA AREA FROM 1998 TO 2000

Site	County	Year	Exceedances measured	Estimated exceedances
Charlestown	Clark, IN	1998	3	3.1
Charlestown	Clark, IN	1999	0	0.0
Charlestown	Clark, IN	2000	0	0.0
New Albany	Floyd, IN	1998	2	2.0
New Albany	Floyd, IN	1999	0	0.0
New Albany	Floyd, IN	2000	0	0.0
Bates	Jefferson, KY	1998	1	1.2
Bates	Jefferson, KY	1999	0	0.0
Bates	Jefferson, KY	2000	0	0.0
Buckner	Oldham, KY	1998	1	1.1
Buckner	Oldham, KY	1999	1	1.2
Buckner	Oldham, KY	2000	0	0.0
Sheperdsville	Bullitt, KY	1998	0	0.0
Sheperdsville	Bullitt, KY	1999	0	0.0
Sheperdsville	Bullitt, KY	2000	0	0.0
Watson	Jefferson, KY	1998	1	1.2
Watson	Jefferson, KY	1999	0	0.0
Watson	Jefferson, KY	2000	0	0.0
WLKY–TV	Jefferson, KY	1998	1	1.1
WLKY–TV	Jefferson, KY	1999	0	0.0
WLKY–TV	Jefferson, KY	2000	0	0.0

During the 1998 to 2000 time period, the Charlestown monitor recorded a total of 3 exceedances, with all 3 exceedances occurring during 1998. Remaining monitors recorded 2 or fewer exceedances for this same time period. Calculation of the estimated exceedances for 1998 for the Charlestown monitor, in accordance with 40 CFR part 50, appendix H, yields 3.1 estimated exceedances for 1998. Due to no exceedance occurring at the Charlestown monitor in 1999 or 2000, the total estimated exceedances for the years of 1998 through 2000 is also 3.1, or 1.0 average expected exceedance per year. This indicates that the monitoring site with the most exceedances is attaining the 1-hour ozone NAAQS. As a result, the Louisville area is currently meeting the air quality requirement for this determination of attainment of the 1-hour ozone NAAQS.

C. How was the Number of Estimated Exceedances at the Charlestown Monitor Determined?

During the 1998 to 2000 time period, the Charlestown monitor was determined to have a total of 3.1 estimated exceedances. This value was determined in accordance with 40 CFR 50.9 and appendix H, as follows: $e = v + [(v/n)*(N-n-z)]$ where:

Variable description	Value for Charlestown monintor for 1998	Comments
e = the estimated number of exceedances for the year	3.1	Calculated.
N = the number of required monitoring days in the year	183	Indiana's ozone season is April 1–September 30.
n = the number of valid daily maxima	172	Days with valid data based on 40 CFR part 50 and appendix H.
v = the number of daily values above the level of the standard	3	Based on monitored values.
z = the number of days assumed to be less than the standard level.	3	Based on 40 CFR part 50. Appendix H, for days that were likely below the standard.

The current version of the AIRS database calculates the Charlestown monitor as having 3.2 estimated exceedances during the 1998 ozone season, based on the availability of valid AIRS data for 172 out of 183 ozone season days. However, EPA has determined, in accordance with 40 CFR part 50, appendix H, that for three days during the 1998 ozone monitoring season for which no air quality data was available, it is highly unlikely that the ozone NAAQS was exceeded, and air quality can be assumed to have been below the ozone NAAQS. Part 50, appendix H states, in part, that: "Some allowance should also be made for days for which valid daily maximum hourly values were not obtained but which would quite likely have been below the standard." It then suggests a criterion that "may be used" for ozone. Since appendix H lists only a permissible, but not exclusive method for determining when a missing value may be assumed to have been below the standard, it leaves room for Agency discretion to define alternative conditions for making such a determination. For two days early in the 1998 ozone monitoring season (April 3–4, 1998), this conclusion is based on records of valid daily maxima well below the standard for the remaining 6 Louisville area monitors and overwhelming meteorological evidence that conditions were not highly conducive to ozone formation. In addition, no exceedances have ever been recorded at this monitoring site in early April. For a third day (August 1, 1998), this conclusion is based on records of valid daily maxima below the 75 percent level of the standard for the Charlestown monitor for the days immediately preceding and following this date. Calculation of the estimated exceedances for the Charlestown monitor using the above equation, and assuming that the ozone standard was not exceeded for 175 out of 183 ozone season days yields a total of 3.1 estimated exceedances for the 1998 ozone season. Since no exceedance was recorded for 1999 or 2000, the average number of expected exceedances for this monitor are 1.0 per year for the three-year period of 1998 through 2000, using conventional rounding techniques.

D. What Would Be the Effect of This Action?

The EPA believes it is reasonable to interpret that the Clean Air Act provisions regarding RFP and attainment demonstrations, along with certain other related provisions, do not require certain SIP submissions if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard (i.e., has three consecutive years of complete, quality-assured, air quality monitoring data) without those provisions being implemented. Specifically, the requirements of sections 172(c)(1) and 182(j) concerning submission of an ozone attainment demonstration, the requirements of sections 172(c)(2) and 182(b)(1) concerning submission of a 15% VOC emission reduction plan, and the requirements of section 172(c)(9) concerning contingency measures for RFP or attainment will not be applicable to the Louisville area. EPA intends, however, to approve the regulations that were submitted by the Commonwealth with its 15% plan, since these regulations were adopted by the Commonwealth or the Air Pollution Control District of Jefferson County prior to 1998 and provided permanent and enforceable reductions for the Louisville area during the 1998 to 2000 ozone seasons. Likewise, previously-approved SIP revisions must continue to be implemented and enforced and are not affected by this action.

The above determinations are contingent upon continued monitoring and continued attainment and maintenance of the 1-hour ozone NAAQS in the Louisville area. If a violation of the 1-hour ozone NAAQS is monitored in any of the five counties, EPA will initiate rulemaking action to reinstate these requirements in the **Federal Register**. A violation in any of the five counties would mean that the entire area would thereafter have to address the above-cited requirements, since the basis for the determination that they do not apply would no longer exist.

E. What Is the Background for this Action?

Subpart 2 of part D of Title I of the CAA contains various air quality planning and SIP submission requirements for 1-hour ozone nonattainment areas. EPA interprets the general provisions of subpart 1 of part D of Title I (sections 171 and 172) and the more specific attainment demonstration and related provisions of subpart 2 (section 182) to not require the submission of SIP revisions concerning RFP, attainment demonstrations, or contingency measures for areas where the monitoring data show that the area is attaining the 1-hour ozone standard (See *Sierra Club* vs *EPA*, 99 F.3d 1551 (10th Cir. 1996)). This rationale is described in a memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," dated May 10, 1995. EPA has previously applied this interpretation in a number of areas, including Cincinnati (65 FR 37879 (June 19, 2000)), Grand Rapids (61 FR 31831 (June 21, 1996)), Cleveland (61 FR 20458 (May 7, 1996)), and Salt Lake City (60 FR 36723 (July 18, 1995)).

First, with respect to RFP, section 171(1) states that, for purposes of part D of Title I, RFP "means such annual incremental reductions in the emissions of the relevant air pollutant as are required by this part or may be reasonably required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date." Thus, whether dealing with the general RFP requirement of section 172(c)(2), or the more specific RFP requirements of subpart 2 for classified ozone

nonattainment areas (such as the 15% plan requirement of section 182(b)(1)), the stated purpose of RFP is to ensure attainment by the applicable attainment date. If an area has, in fact, attained the standard without implementing RFP, the stated purpose of the RFP requirement will have already been fulfilled, and EPA does not believe that the area need submit SIP revisions providing for the further emission reductions described in the RFP provisions of section 182(b)(1).

EPA notes that it took this view with respect to the general RFP requirement of section 172(c)(2) in the General Preamble for the Interpretation of title I of the Clean Air Act Amendments of 1990 (57 FR 13498, April 6, 1992), and it is now extending that interpretation to the specific provisions of subpart 2. In the General Preamble, EPA stated, in the context of a discussion of the requirements applicable to the evaluation of requests to redesignate nonattainment areas to attainment, the "requirements for RFP will not apply in evaluating a request for redesignation to attainment since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the state will make RFP towards attainment will, therefore, have no meaning at that point." (57 FR 13564).

Second, with respect to attainment demonstration requirements, an analogous rationale can be applied. Section 182(b)(1) requires that the plan provide for "such specific annual reductions in emissions * * * as necessary to attain the national primary ambient air quality standard by the attainment date applicable under the CAA." If an area has in fact monitored attainment of the relevant NAAQS, EPA believes there is no need for an area to make a further submission containing additional measures to achieve attainment. This is also consistent with the interpretation of certain section 172(c) requirements provided by EPA in the General Preamble to Title I. As stated in the Preamble, no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since "attainment will have been reached" (57 FR 13564). Upon attainment of the NAAQS, the focus of state planning efforts shifts to the maintenance of the NAAQS and the development of a maintenance plan under section 175A.

Finally, similar reasoning applies to the contingency measure requirements of section 172(c)(9) of the CAA. EPA has previously interpreted the contingency measure requirement of section 172(c)(9) as no longer being applicable once an area has attained the standard since those "contingency measures are directed at ensuring RFP and attainment by the applicable date" (57 FR 13564). EPA has excercised this policy most recently in approvals for the Cincinnati, Ohio. and Muskegon, Michigan, areas (65 FR 37879 and 65 FR 52651).

EPA emphasizes that the lack of a requirement to submit the SIP revisions discussed above exists for only so long as an area designated nonattainment continues to attain the standard. If EPA subsequently determines that such an area has violated the NAAQS, the basis for the determination that the area need not make the pertinent SIP revisions would no longer exist. EPA would notify the state of that determination and would also provide notice to the public in the **Federal Register**. Such a determination would mean that the area would have to address the pertinent SIP requirements within a reasonable amount of time, which EPA would establish taking into account the individual circumstances surrounding the particular SIP submissions at issue. Thus, a determination that an area need not submit one of the above-mentioned SIP submittals amounts to no more than a determination that new submittals are no longer required for the Louisville area for so long as the area continues to attain the standard.

The state must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. The air quality data relied upon to determine that the area is attaining the 1-hour ozone NAAQS must be consistent with 40 CFR part 58 requirements and other relevant EPA guidance and recorded in AIRS.

The determination that is being made with this **Federal Register** document is not equivalent to redesignation of this area to attainment. Attainment of the ozone NAAQS is only one of the criteria set forth in section 107(d)(3)(E) that must be satisfied for an area to be redesignated to attainment. To be redesignated, the state must submit and receive full approval of a redesignation request for the area that satisfies all of the criteria of that section, including the requirement of a demonstration that the improvement in the area's air quality is due to permanent and enforceable reductions and the requirement that the area have a fully approved SIP meeting all of the applicable requirements under section 110 and part D and a fully approved maintenance plan.

The determinations made in this document do not shield an area from future EPA action to require emissions reductions from sources in the area where there is evidence, such as photochemical grid modeling, showing that emissions from sources in the area contribute significantly to nonattainment in, or interfere with maintenance by, any other states with respect to the NAAQS (see section 110(a)(2)(D)). The EPA has authority under sections 110(a)(2)(A) and 110(a)(2)(D) of the CAA to require such emission reductions if necessary and appropriate to deal with transport situations.

F. Where Is the Public Record and Where Do I Send Comments?

The official record for this proposed rule is located at the addresses in the **ADDRESSES** section at the beginning of this document. The addresses for sending comments are also provided in the **ADDRESSES** section at the beginning of this document. Public comments are solicited on EPA's proposed rulemaking action. Public comments received by June 18, 2001 will be considered in the development of EPA's final rulemaking action.

II. What Administrative Requirements did EPA Consider?

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This proposed action merely proposes to determine that air quality meets federal requirements and imposes no additional requirements. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to determine that air quality meets federal requirements and does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255,

August 10, 1999), because it determines that air quality meets federal requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This rule does not involve technical standards, but air quality considerations governed by federal regulations. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: April 20, 2001.
Dated: May 8, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Norman Neidergang,

Acting Regional Administrator, Region 5.

[FR Doc. 01–12439 Filed 5–16–01; 8:45 am]
BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 66, No. 96
Thursday, May 17, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 00–097–1]

Notice of Request for an Extension of a Currently Approved Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of a currently approved information collection to gather data on West Nile virus.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by July 16, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 00–097–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 00–097–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: For information on the West Nile virus collection activities, contact Dr. Randall Crom, Senior Staff Veterinarian, Emergency Programs, Veterinary Services, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737; (301) 734–8073. For copies of more detailed information on the information collection, contact Mrs. CelesteSickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: West Nile Virus Surveillance Project.

OMB Number: 0579–0162.

Expiration Date of Approval: June 30, 2001.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service (APHIS), Veterinary Services (VS), is responsible for protecting the health of our Nation's livestock and poultry by controlling and eradicating contagious, infectious, or communicable animal diseases. Veterinary Services'Emergency Programs unit coordinates APHIS' roles and responsibilities in planning for and responding to emerging or exotic animal diseases.

In 1999, West Nile virus (WNV), which can cause encephalitis, an inflammation of the brain, was first identified in the United States in wild birds, mosquitoes, humans, and equines. Clinical illness in humans and equines occurred during early August through late October 1999, with 62 human cases, including 7 deaths, and 25 equine cases, including 9 deaths. Because the virus is transmitted by mosquitoes, it has the potential to affect humans, livestock, and poultry. No treatment or vaccine is currently available.

In 2000, WNV was detected in humans, equines, other mammals, birds, and mosquitoes in the northeastern United States and in one crow in North Carolina. Of the 21 additional cases of WNV confirmed in humans in 2000, two deaths have been reported. Of the 59 cases confirmed in equines in 2000, 23 equines died or were euthanized. The equine cases were confirmed in Connecticut, Delaware, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. The three equine cases in Delaware were the first cases of WNV to be documented in that State. Over 4,300 dead birds and 480 mosquito pools were documented as positive for WNV in 12 States and the District of Columbia. A dead crow tested positive for WNV in North Carolina, making that the first confirmation of the presence of WNV in that southeastern State. More data on the distribution of WNV is available online at http://www.aphis.usda.gov/oa/wnv/wnvstats.html.

Under an approved emergency information collection, data was collected on equines infected in 2000 from equine owners in up to five States in the northeastern United States. We collected data on equines infected in 2000, the premises on which they reside, and on equines and premises in the immediate area of the infected equines. We will analyze the data in an attempt to explain equine or premises risk factors for WNV infection. Extending the approval for an additional 3 years will allow additional epidemiologic data to be collected and analyzed.

We are asking the Office of Management and Budget (OMB) to approve the WNV information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, 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 information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of

information is estimated to average 1.125 hours per response.

Respondents: Equine owners.

Estimated annual number of respondents: 420.

Estimated annual number of responses per respondent: 2.

Estimated annual number of responses: 840.

Estimated total annual burden on respondents: 945 hours.

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.

Done in Washington, DC, this 11th day of May 2001.

Richard L. Dunkle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–12429 Filed 5–16–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–009–2]

Wildlife Services; Availability of Environmental Assessment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment for oral rabies vaccination programs in several States. The environmental assessment analyzes the potential environmental effects of a proposal to continue and expand the Agency's involvement in programs to stop the spread of certain wildlife-borne rabies strains in the States of New York, Ohio, Texas, Vermont, and West Virginia, and examines similar efforts that may be conducted in New Hampshire, Pennsylvania, Florida, Massachusetts, Maryland, New Jersey, Virginia, and Alabama. We are making this environmental assessment available to the public for review and comment prior to an Agency decision.

DATES: We will consider all comments that we receive by June 18, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–009–2, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–009–2.

To obtain a copy of the environmental assessment, contact Elizabeth Harris, Operational Support Staff, Wildlife Services, APHIS, 4700 River Road Unit 87, Riverdale, MD 20737–1234; phone (301) 734–7921, fax (301)734–5157, or e-mail: elizabeth.harris@aphis.usda.gov. You may also read the environmental assessment and any comments we receive on this notice of availability in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dennis Slate, Rabies Program Coordinator, Wildlife Services, APHIS, 59 Chennell Drive, Suite 7, Concord, NH 03301–8548; phone (603) 223–6832.

SUPPLEMENTARY INFORMATION:

Background

The Wildlife Services (WS) program in the Animal and Plant Health Inspection Service (APHIS) cooperates with Federal agencies, State and local governments, and private individuals to research and implement the best methods of managing conflicts between wildlife and human health and safety, agriculture, property, and natural resources. Wildlife-borne diseases that can affect domestic animals and humans are among the types of conflicts that APHIS–WS addresses. Wildlife is the dominant reservoir of rabies in the United States.

On December 7, 2000, a notice was published in the **Federal Register** (65 FR 76606–76607, Docket No. 00–045–1) in which the Secretary of Agriculture declared an emergency and transferred funds from the Commodity Credit Corporation to APHIS–WS for the continuation and expansion of oral rabies vaccination (ORV) programs to address rabies in the States of Ohio, New York, Vermont, Texas, and West Virginia.

On March 7, 2001, we published a notice in the **Federal Register** (66 FR 13697–13700, Docket No. 01–009–1) to solicit public involvement in the planning of a proposed cooperative program to stop the spread of rabies in the States of New York, Ohio, Texas, Vermont, and West Virginia. The notice also stated that a small portion of northeastern New Hampshire and the western counties in Pennsylvania that border Ohio could also be included in these control efforts, and discussed the possibility of APHIS–WS cooperating in smaller-scale ORV projects in the States of Florida, Massachusetts, Maryland, New Jersey, Virginia, and Alabama. The March 2001 notice contained detailed information about the history of the problems with raccoon rabies in eastern States and with gray fox and coyote rabies in Texas, along with information about previous and ongoing efforts using ORV baits in programs to prevent the spread of the rabies strains of concern.

To provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with the proposed rabies control programs discussed in the March 2001 notice, we have prepared an environmental assessment (EA). The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended(42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

This EA reflects our review and consideration of the comments received in response to the March 2001 notice, as well as a number of issues and alternatives identified during the preparation of previous EA's covering ORV use in earlier, State-level ORV programs. The EA is now available for public review and comment prior to an Agency decision.

Done in Washington, DC, this 11th day of May 2001.

Richard L. Dunkle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–12430 Filed 5–16–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–038–1]

Temporary Closure of the Miami Animal Import Center's Bird Quarantine Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are giving notice that the Miami Animal Import Center will be unavailable for the quarantine of birds (except for confiscated or smuggled birds) from June 1, 2001, through August 31, 2001, due to facility renovations. During the closure, avian importers requiring the services of a United States Department of Agriculture animal import center for the quarantine of imported birds may utilize either the New York Animal Import Center or the Los Angeles Animal Import Center. Avian importers who need to make alternate arrangements during the temporary closure period of the Miami Animal Import Center should contact either the New York Animal Import Center, USDA, APHIS, VS, 200 Drury Lane, Rock Tavern, NY 12575, (845) 564–2950 or the Los Angeles Animal Import Center, USDA, APHIS, VS, 11850 South LaCienega Boulevard, Hawthorne, CA, 90250, (310) 725–1970. Further information regarding avian importation and quarantine is also available on the Internet at http://www.aphis.usda.gov/NCIE/ind–3000.html.

FOR FURTHER INFORMATION CONTACT: Dr. Sara Kaman, Senior Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231; (301) 734–8364.

Done in Washington, DC, this 11th day of May 2001.

Richard L. Dunkle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–12431 Filed 5–16–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Opal Creek Scenic Recreation Area (SRA) Advisory Council

AGENCY: Forest Service, USDA Forest Service.

ACTION: Notice of meeting.

SUMMARY: An Opal Creek Scenic Recreation Area Advisory Council meeting will convene in Salem, Oregon on Saturday, June 2, 2001. The meeting is scheduled to begin at 9 a.m., and will conclude at approximately 2 p.m. The meeting will be held at the Salem City Library, Anderson Room B, located at 585 Liberty Street SE in Salem, Oregon.

The Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996 (Opal Creek Act) (Public Law 104–208) directed the Secretary of Agriculture to establish the Opal Creek Scenic Recreation Area Advisory Council. The Advisory Council is comprised of thirteen members representing state, county and city governments, and representatives of various organizations, which include mining industry, environmental organizations, inholders in Opal Creek Scenic Recreation Area, economic development, Indian tribes, adjacent landowners and recreation interests. The council provides advice to the Secretary of Agriculture on preparation of a comprehensive Opal Creek Management Plan for the SRA, and consults on a periodic and regular basis on the management of the area. The tentative agenda will focus on describing the desired future condition of the SRA.

The public comment period is tentatively scheduled to begin at 1 p.m. Time allotted for individual presentations will be limited to 3 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits of the comment period. Written comments may be submitted prior to the June 2 meeting by sending them to Designated Federal Official Stephanie Phillips at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Stephanie Phillips; Willamette National Forest, Detroit Ranger District, HC 73 Box 320, Mill City, OR 97360; (503) 854–3366.

Dated: May 10, 2001.

Darrel L. Kenops,

Forest Supervisor.

[FR Doc. 01–12415 Filed 5–16–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Oregon Province Interagency Executive Committee (PIEC) Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Oregon PIEC Advisory Committee will meet on June 5, 2001 in Medford, Oregon at the Medford Bureau of Land Management Office at 3040 Biddle Road. The meeting will begin at 9 a.m. and continue until 5 p.m. Agenda items to be covered include: (1) Province Advisory Committee Operating Guidelines; (2) Public Comment; (3) Discussion of Land Management Issues; and (4) Current issues as perceived by Advisory Committee members.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Roger Evenson, Province Advisory Committee Coordinator, USDA, Forest Service, Umpqua National Forest, 2900 NW Stewart Parkway, Roseburg, Oregon 97470, phone (541) 957–3344.

Dated: May 11, 2001.

Michael D. Hupp,

Acting Designated Federal Official.

[FR Doc. 01–12414 Filed 5–16–01; 8:45 am]

BILLING CODE 3410–11–M

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: May 22, 2001; 9:30 A.M.–4 P.M.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20237.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b. (c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b. (c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b. (c)(2) and (6)).

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact either

Brenda Hardnett or Carol Booker at (202) 401–3736.

Dated: May 14, 2001.

Carol Booker,

Legal Counsel.

[FR Doc. 01–12613 Filed 5–15–01; 3:17 pm]

BILLING CODE 8230–01–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Iowa Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Iowa Advisory Committee to the Commission will convene at 10 a.m. and adjourn at 1 p.m. on May 30, 2001, at the Des Moines Marriott Hotel, 700 Grand Avenue, Des Moines, Iowa. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 7, 2001.

Edward A. Hailes, Jr.,

General Counsel.

[FR Doc. 01–12443 Filed 5–16–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Jersey Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Jersey Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 4 p.m. on Wednesday, June 6, 2001, at the New Jersey State House, Room 319, 125 W. State Street, Trenton, New Jersey 08625. The purpose of the meeting is to: (1) review the Committee's draft report on Asian American representation in the New Jersey state government employment; and (2) the Committee will hold a briefing session focusing on the Federal role in compliance with a consent decree remedying racial profiling practices by the New Jersey state police or alternatively criminal prosecutions for civil rights violations in New Jersey.

Persons desiring additional information, or planning a presentation to the Committee, should contact Chairperson Dr. Irene Hill-Smith, 856–468–5546 or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 7, 2001.

Edward A. Hailes, Jr.,

General Counsel.

[FR Doc. 01–12442 Filed 5–16–01; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance for following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 3506(c)(2)(A).

Agency: Office of Human Resources Management.

Title: Commerce Opportunities On-Line (COOL).

Form Number: None.

OMB Number: 0690–0019.

Type of Request: Regular submission.

Burden Hours: 32,832.

Number of Respondents: 32,832.

Average Hours Per Response: 1 hour.

Needs and Uses: Commerce Opportunities On-Line (COOL) is a web-based software system that automates the vacancy announcement, application intake, application evaluation, and application referral processes, for positions in the Department of Commerce (DOC).

COOL will provide the DOC with a more user-friendly on-line employment application process and enable the DOC to process hiring actions in a more efficient and timely manner. The on-line application will provide an electronic real time candidate list that will allow the DOC to review applications from applicants almost instantaneously. Given the immediate hiring needs of the DOC, time consumed in the mail distribution system or paper review of applications delays the decision-making process by several weeks. The implementation of the COOL electronic application will result in increased speed and accuracy in the employment process. It will also streamline labor and reduce costs.

Affected Public: Individuals or households, Federal Government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or maintain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *Mclayton@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of the notice to David Rostker, OMB Desk Officer,Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: May 11, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12393 Filed 5–16–01; 8:45 am]

BILLING CODE 3510–17–P

DEPARTMENT OF COMMERCE

[I.D. 051101C]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: South Pacific Tuna Act.

Form Number(s): None.

OMB Approval Number: 0648–0218.

Type of Request: Regular submission.

Burden Hours: 430.

Number of Respondents: 32.

Average Hours Per Response: 15 minutes for a license application, 30 minutes for a registration application, 15 minutes for a vessel monitoring system application, 1 hour for a catch report, 30 minutes for an unloading logsheet, 4 hours to install a vessel monitoring system, 24 seconds a day for

position reports from a vessel monitoring system, and 2 hours per year to maintain a vessel monitoring system.

Needs and Uses: NOAA collects license, registration, catch, and unloading information from tuna vessels fishing within a large region of the Pacific Ocean governed by the "Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States." Vessel monitoring systems are also required to provide automated position reports. The information collected is needed to meet obligations under that treaty.

Affected Public: Business and other for-profit organizations.

Frequency: On occasion, weekly, and annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: May 10, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–12482 Filed 5–16–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Processing Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Processing Equipment Technical Advisory Committee will meet on June 19, 2001, 9 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing equipment and related technology.

Agenda

Public Session

1. Opening remarks and introductions.
2. Presentation of papers or comments by the public.
3. Update on Bureau of Export Administration initiatives.
4. Update on the Wassenaar Arrangement.
5. Status on post-shipment checks.
6. Status on "specially designed" entries to the Commerce Control List (CCL).
7. Status on Category 2 Matrix Guide for CCL users.

Closed Session

8. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

A limited number of seats will be available for the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials, the Committee suggests that presenters forward the materials prior to the meeting date to the following address: Ms. Lee Ann Carpenter, OSIES/EA/BXA MS: 3876, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 11, 1999, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC 20230. For more information, contact Lee Ann Carpenter on (202) 482–2583.

Dated: May 14, 2001.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 01–12455 Filed 5–16–01; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of California Coastal Management Program; Change of Meeting Location

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of change of meeting location.

SUMMARY: On May 3, 2001, the NOAA Office of Ocean and Coastal Resource Management (OCRM) announced its intent to evaluate the performance of the California Coastal Management Program/California Coastal Commission. This Coastal Zone Management Program evaluation will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended and regulations at 15 CFR Part 923.

The site visit for this evaluation is June 5–13, 2001, and two public meetings are being held, June 6, and June 11, 2001, as part of the site visit.

Notice is hereby given of a change of location of the second public meeting to be held June 11, 2001. The new public meeting location is: The Los Angeles Airport Marriott, Philadelphia Room, 5855 W. Century Blvd., Los Angeles, California 90045.

FOR FURTHER INFORMATION CONTACT: Douglas Brown, Acting Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–3155, Extension 215.

Dated: May 14, 2001.

Ted I. Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 01–12483 Filed 5–16–01; 8:45 am]

BILLING CODE 3510–18–M

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Technology Panel Meeting will meet in Kirtland Air Force Base, New

Mexico on May 23–25, 2001 from 8 a.m. to 5 p.m.

The purpose of the meeting is to receive briefings and discuss the direction of the study. The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–12445 Filed 5–16–01; 8:45 am]

BILLING CODE 5001–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Urban Targets Panel Meeting will meet in Washington, DC on May 29–31, 2001 from 8 a.m. to 5 p.m.

The purpose of the meeting is to receive briefings and discuss the direction of the study. The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–12446 Filed 5–16–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Automatic Target Recognition (ATR) for Sensor Meeting will meet in Boston, Massachusetts on May 24–25, 2001 from 8 a.m. to 5 p.m.

The purpose of the meeting is to receive briefings and discuss the direction of the study. The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–12447 Filed 5–16–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Summer General Board Meeting will meet in Irvine, California on June 18–29, 2001 from 8 a.m. to 5 p.m.

The purpose of the meeting is to draft initial findings and recommendations for each study. The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–12448 Filed 5–16–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Buried Target Panel Meeting will meet in Pasadena, California on May 24, 2001 from 8 a.m. to 5 p.m.

The purpose of the meeting is to receive briefings and discuss the direction of the study. The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–12449 Filed 5–16–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Grant an Exclusive Patent License

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, as amended, the Department of the Air Force announces its intention to grant Ohio University, Athens, Ohio, an exclusive license in U.S. Provisional Patent Application Serial Number 60/220,768, entitled "Object Identification System and Method," and any subsequently filed patent applications related to this provisional application. The invention described in this application is a joint invention between Ohio University and the Air Force.

A license for this invention will be granted unless a written objection is received within 60 days from the date of publication of this Notice. Information concerning this Notice may be obtained from Mr. William H. Anderson, Associate General Counsel (Acquisition), SAF/GCQ, 1500 Wilson Blvd., Suite 304, Arlington, VA 22209–2310. Mr. Anderson can be reached at 703–588–5090 or by fax at 703–588–8037.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–12444 Filed 5–16–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patent Application for Non-Exclusive, Exclusive, or Partially Exclusive Licensing

AGENCY: U.S. Army Soldier and Biological Chemical Command, DoD.

ACTION: Notice.

SUMMARY: In accordance with 35 U.S.C. 209 and 37 CFR Part 404 announcement is made of the availability for licensing of the following U.S. Patent applications for non-exclusive, exclusive, or partially exclusive licensing. The patent applications listed below have been assigned to the United States Government as represented by the Secretary of the Army, Washington, DC.

Title: "Method and Apparatus for Counting Submicron Sized Particles."

Description: A system for detecting the presence of different size groups of submicron sized particles in a fluid sample collected from the environment. The system includes a collecting apparatus for collecting a fluid sample containing the submicron size particles which include virus and virus-like agents. After the sample is collected, the sample is directed to a means for detecting the submicron size particles wherein the detection apparatus includes an electrospray assembly having an electrospray capillary, a differential mobility analyzer which receives the output from the capillary, and a condensation particle counter for counting and identifying the submicron size particles in the sample.

Patent Application Number: 09/662,787.

Filing Date: September 15, 2000.

Title: "Method and System for Detecting and Recording Submicron Sized Particles."

Description: A system and method for detecting the presence of submicron sized particles in a sample taken from the environment which includes a means for collecting a sample from the environment and a means for purifying and concentrating the submicron particles in a sample by purifying and concentrating the particles based on size. The purified and concentrated particles are detected with an apparatus which includes an electrospray assembly having an electrospray capillary, a differential mobility analyzer which received the output from the capillary, and a condensation particle device for counting the number of particles that pass through the differential mobility analyzer. The system is intended to collect a sample containing submicron size particles having a size from about 10 to about 350 nanometers and include submicron size particles selected form the group consisting of viruses, prions, macromolecules, protein satellites, and virus fragments. Automated controls can be utilized to control the flow of the sample through the system.

Patent Application Number: 09/662,788.

Filed: September 15, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. John Biffoni, Intellectual Property Attorney, U.S. Army SBCCOM, ATTN: AMSSB–CC (Bldg E4435), APG, MD 21010–5424, Phone: (410) 436–1158; FAX: 410–436–2534 or E-mail:*John.Biffoni@sbccom.apgea.army.mil.*

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–12490 Filed 5–16–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent To Grant an Exclusive or Partially Exclusive License to Paratek Microwave, Inc.

AGENCY: U.S. Army Research Laboratory (ARL), DoD.

ACTION: Notice of intent.

SUMMARY: In compliance with 37 CFR 404 et seq., the Department of the Army hereby gives notice of its intent to grant to Paratek Microwave, Inc., a corporation having its principle place of business at 6935N Oakland Mills Rd., Columbia, MD 21045, an exclusive license relative to a patented ARL technology (U.S. Patent #5,427,988, Sengupta, et al.; June 27, 1995; Ceramic Ferroelectric Composite Material—BSTO–MgO). Anyone wishing to object to the granting of this license has 15 days from the date of this notice to file written objections along with supporting evidence, if any.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications. ATTN: AMSRL–CS–TT/Bldg. 459, Aberdeen Proving Ground, Maryland 21005–5425, Telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–12491 Filed 5–16–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Plant-Derived Anti-Parasitic and Antifungal Compounds and Methods of Extracting the Compounds

AGENCY: U.S. Army Medical Research and Materiel Command, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent Application No. 09/428,203 entitled "Plant-Derived Anti-parasitic and Antifungal Compounds and Methods of Extracting Compounds" and filed May 24, 2000. This patent application has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664. Both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Provided are biologically active extracts from Aframomum aulocacarpus, Aframomum danelli, Dracaena arborea, Eupatorium odoratum, Glossocalyz brevipes, and Napoleonaea impereialis, which are suitable for use in treating fungal and protozoa diseases.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–12492 Filed 5–16–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on November 5, 1999, an arbitration panel rendered a decision in the matter of *California Department of Rehabilitation* v. *General Services Administration (Docket No. R–S/97–11).* This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d–1(b) upon receipt of a complaint filed by petitioner, the California Department of Rehabilitation.

FOR FURTHER INFORMATION: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 400 Maryland Avenue, SW., room 3230, Mary E. Switzer Building, Washington DC 20202–2738. Telephone: (202) 205–9317. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–8298.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: www.ed.gov/legislation/FedRegister.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)) (the Act), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

This dispute concerns the alleged violation by the General Services Administration (GSA) in the termination of the permit of the California Department of Rehabilitation, the State licensing agency (SLA), to operate a cafeteria at the Internal Revenue Service (IRS) facility, in Fresno, California. A summary of the facts is as follows: The SLA and GSA entered into an agreement to establish a cafeteria at the IRS Building, 5045 E. Butler Avenue, Fresno, California on November 1, 1995. The facility had been operated by a private vendor under contract to GSA.

Although the vending facility was a cafeteria, the SLA and GSA proposed a permit rather than a contract. GSA proposed that the permit be issued for a limited term of approximately 1 year, subject to renewal or cancellation at the end of that period. While the SLA declined to enter into a limited agreement, the permit that was eventually issued between the SLA and GSA was for an "indefinite period of time subject to suspension or termination on the basis of non-compliance by either party."

The operation of the IRS cafeteria began on December 18, 1995. On September 25, 1996, an inspection of the cafeteria was conducted by the Food and Drug Administration (FDA). The FDA inspector noted numerous unsanitary conditions such as improper food preparation and storage, pest infestation, and employees eating and drinking beverages outside the break area. The violations noted by the FDA inspector were brought to the attention of the cafeteria facility manager. On March 5, 1997, an FDA inspector conducted another inspection at the IRS cafeteria. Again, the FDA inspector observed several violations similar to those noted in the September 25, 1996, inspection. Additional violations were found such as rodent droppings, improper cleaning of the conveyor belt, lack of soap and paper towels at the handwashing sink, and improper cleaning of the floor in the dishwashing area. These violations were pointed out to the cafeteria manager, who allegedly did not dispute any of the FDA inspector's observations. Subsequently, the cafeteria was closed.

The SLA alleged that the closure of the IRS cafeteria violated the Act and the terms of the permit. Additionally, the SLA alleged that GSA violated an agreement to give the SLA revenues from the operation of a portable coffee cart in the cafeteria area.

The SLA filed a request to convene an arbitration panel to hear this complaint. A Federal arbitration hearing on this matter was held on December 15–18, 1998. A second hearing was convened on March 1–5, 1999 to conclude testimony.

Arbitration Panel Decision

The majority of the panel, after considering all of the evidence, concluded that the parties jointly agreed to a permit agreement rather than a cafeteria contract for the vending facility at the IRS building. The panel further found that, while IRS personnel were interested in having a food court at the facility, the SLA furnished the vendor with equipment that essentially provided for multiple serving stations and a broader variety of food similar to the food court concept sought by IRS officials. Thus, the panel ruled that there was no convincing evidence to support the SLA's allegation that GSA caused the termination of the vendor's permit under the pretext of putting in a food court by a private vendor.

Based upon the evidence presented, the majority of the panel further concluded that, throughout the vendor's tenure at the IRS, there were numerous inspections of the cafeteria. Most notable of the inspections were those conducted by FDA on September 25, 1996, and March 4, 1997, which identified numerous sanitation, food preparation, and storage violations. Those inspections resulted in the cafeteria closing.

The panel ruled that the unsanitary conditions created serious health risks to thousands of customers of the cafeteria at the IRS building. Therefore, it was reasonable and proper for GSA to remove the vendor because of the extreme unsanitary conditions. Furthermore, the panel ruled that the SLA's allegation concerning the vendor's removal lacking due process was without merit.

Finally, the majority of the panel ruled that the weight of the evidence indicated that GSA owed some accounting and commissions to the SLA for the coffee cart operation. The panel ordered the parties to jointly determine the formula for the amount owed by GSA to the SLA.

One panel member concurred.

One panel member dissented.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: May 11, 2001.

Andrew J. Pepin,

Executive Administrator for Special Education and Rehabilitative Services.

[FR Doc. 01–12402 Filed 5–16–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

National Petroleum Council

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the National Petroleum Council. Federal Advisory Committee Act (Public Law 92–463,86 Stat. 770) requires notice of these meetings be announced in the **Federal Register.**

DATES: Wednesday, June 6, 2001, 9 a.m.

ADDRESSES: The Ritz Carlton,Ballroom Salon I, 1150 22nd Street, NW.,Washington, DC.

FOR FURTHER INFORMATION CONTACT: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy, Washington, DC 20585. Phone: 202/586–3867.

SUPPLEMENTAL INFORMATION: Purpose of the Committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industry.

Tentative Agenda

—Call to order and introductory remarks by Archie W. Dunham, Chair of the NPC.
—Remarks by the Honorable Spencer Abraham, Secretary of Energy (invited).
—Consideration of the proposed final report of the NPC Committee on Critical Infrastructure Protection.
—Administrative matters.
—Discussion of any other business properly brought before the NPC.
—Public comment (10-minute rule).
—Adjournment.

Public Participation: The meeting is open to the public. The chairperson of the Council is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Margie D. Biggerstaff at the address or telephone

number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

Transcripts: Available for public review and copying at the Public Reading Room, Room IE–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 am and 4 pm, Monday through Friday, except Federal holidays.

Issued at Washington, DC, on May 11, 2001.

Belinda Hood,

Acting Deputy Committee Advisory Management Officer.

[FR Doc. 01–12438 Filed 5–16–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–35–000; Docket No. RT01–15–000]

Avista Corporation, Bonneville Power Administration, Idaho Power Company, Montana Power Company, Nevada Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., Sierra Pacific Power Company; Avista Corporation, Montana Power Company, Nevada Power Company, Portland General Electric Company, Puget Sound Energy, Inc., Sierra Pacific Power Company; Notice of Technical Conference

May 11, 2001.

Take notice that Commission Staff will hold a technical conference to discuss liability issues presented by the RTO West/TransConnect application on May 24, 2001, beginning at 2 p.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

All interested persons are permitted to attend.

David P. Boergers,

Secretary.

[FR Doc. 01–12428 Filed 5–11–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–262–001]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

May 11, 2001.

Take notice that on April 30, 2001, Columbia Gas Transmission Corporation (Columbia) tendered for filing its responses to the five inquiries made by the Commission in seeking additional information on Columbia's retainage percentages filed on March 1, 2001.

Columbia states that the filing is being made in compliance with the Commission letter order issued on March 28, 2001 [1] in the above-referenced proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 21, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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. 01–12397 Filed 5–16–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR01–14–000]

Enogex, Inc; Notice of Petition for Rate Approval

May 11, 2001.

Take notice that on May 1, 2001, Enogex, Inc. (Enogex) filed a Petition for Rate Approval (Petition) pursuant to Section 284.123(b)(2) of the Commission's regulations, 18 CFR 284.123(b)(2). In the Petition, Enogex requests that the Commission approve a rate for interruptible transportation service under Section 311(a)(2) of the Natural Gas Policy Act of $0.4866 per MMBtu. Enogex states that this combined rate replaces the separate charges for compression and transmission that the Commission had previously approved. No further change is proposed to the fuel retention percentages, since they are currently under consideration by the Commission in Docket No. PR01–6–000.

Pursuant to Section 284.123(b)(2)(ii) of the Commission's regulations, if the Commission does not act within 150 days of the Petition's filing date, the rates proposed therein will be deemed to be fair and equitable and not in excess of an amount that interstate pipelines would be permitted to charge for similar services. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All motions must be filed with the Secretary of the Commission on or before May 29, 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. 01–12398 Filed 5–16–01; 8:45 am]

BILLING CODE 6717–01–M

[1] 94 FERC ¶61,350 (2001).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER91–195–046]

Western Systems Power Pool; Notice of Filing

May 11, 2001.

Take notice that on April 30, 2001, the Western Systems Power Pool (WSPP) tendered for filing certain information as required by Ordering Paragraph (D) of the Commission's June 27, 1991 Order (55 FERC 61,495) and Ordering Paragraph (C) of the Commission's June 1, 1992 on Rehearing Denying Request Not To Submit Information, and Granting In Part and Denying In Part Privileged Treatment. Pursuant to 18 CFR 385.211 (1999), WSPP has requested privileged treatment for some of the information filed consistent with the June 1, 1992 order.

Copies of WSPP's informational filing are on file with the Commission, and the non-privileged portions are available for public inspection.

Any person desiring to be heard or to protests 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 May 21, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–12400 Filed 5–16–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–43.000, et al.]

PPL Montour, LLC, et al.; Electric Rate and Corporate Regulation Filings

May 10, 2001.

Take notice that the following filings have been made with the Commission:

1. PPL Montour, LLC

[Docket No. EG01–43–000]

Take notice that on May 9, 2001, PPL Montour, LLC tendered for filing with the Federal Energy Regulatory Commission (Commission) a second amended and restated application for redetermination of exempt wholesale generator status pursuant to Section 32 of the Public Utility Holding Company Act of 1935 (PUHCA) and Section 365.3 of the Commission's regulations.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the amended application.

2. California Independent System Operator Corporation

[Docket Nos. EL00–95–030 and EL00–98–029]

Take notice that on April 26, 2001, the California Independent System Operator Corporation (ISO) tendered for filing Amended and Restated Bylaws. The purpose of the Amendment is to submit amended Bylaws to comply with California Public Utilities Code Section 337, as revised by Assembly Bill 5X, approved by the Governor and filed with the Secretary of State on January 18, 2001.

The ISO requests that the filing be made effective on April 18, 2001.

The ISO states that this filing has been served on the California Public Utilities Commission and all California ISO Scheduling Coordinators.

Comment date: May 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. New England Power Pool

[Docket No. ER01–1741–001]

Take notice that on May 2, 2001, the New England Power Pool (NEPOOL) Participants Committee tendered for filing in the above-captioned docket, a correction to a proposed billing procedure filed by NEPOOL with the Commission for informational purposes as part of NEPOOL's April 5, 2001 filing, pursuant to Section 205 of the Federal Power Act, of the NEPOOL Open Access Transmission Tariff Ancillary Service 16 Implementation Rule (the Schedule 16 Implementation Rule). The April 5, 2001 filing of the Implementation Rule is the subject of Docket No. ER01–1741–000. The correction to the billing procedure deletes a reference to a non-existent FERC account in that portion of the billing procedure which describes the Schedule 16 revenue requirement determination, and inserts a reference to the correct FERC accounts to be used in the formula.

The NEPOOL Participants Committee states that copies of these materials were sent to the NEPOOL Participants and the six New England state governors and regulatory commissions, all as indicated in the appropriate Attachments to the April 5, 2001 filing.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Cinergy Services, Inc.

[Docket No. ER01–1966–000]

Take notice that on May 2, 2001, Cinergy Services, Inc. (Cinergy), as agent for and on behalf of The Cincinnati Gas & Electric Company and PSI Energy, Inc., tendered for filing a confidential long-term power sales agreement with Alcoa Power Generating, Inc. Cinergy also filed a redacted, non-confidential version of the agreement.

Comment date: May 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Idaho Power Company

[Docket No. ER01–1976–000]

Take notice that on May 7, 2001, Idaho Power Company tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service between Idaho Power Company and Watts United Power, L.L.C. under its open access transmission tariff in the above-captioned proceeding.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Idaho Power Company

[Docket No. ER01–1977–000]

Take notice that on May 7, 2001, Idaho Power Company tendered for filing a revised Service Agreement for Firm Point-to-Point Transmission Service between Idaho Power Company and Arizona Public Service Company under its open access transmission tariff in the above-captioned proceeding.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Idaho Power Company

[Docket No. ER01–1978–000]

Take notice that on May 7, 2001, Idaho Power Company tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between Idaho Power Company and Watts United Power, L.L.C. under its open access transmission tariff in the above-captioned proceeding.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Cinergy Services, Inc.

[Docket No. ER01–1979–000]

Take notice that on May 7, 2001, Cinergy Services, Inc. (Provider) tendered for filing a Non-Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Cinergy and NRG Power Marketing Inc. (Customer).

Provider and Customer are requesting an effective date of April 20, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Cinergy Services, Inc.

[Docket No. ER01–1980–000]

Take notice that on May 7, 2001, Cinergy Services, Inc. (Cinergy) tendered for filing an executed service agreement between Cinergy and Carolina Power & Light Company under COC Market-Based Power Sales Tariff-MB. This service agreement supercedes the existing service agreement under Cinergy FERC Electric Power Sales Tariff, Original Volume No. 4.

Cinergy requests an effective date of April 24, 1996.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Inc.

[Docket No. ER01–1981–000]

Take notice that on May 7, 2001, Cinergy Services, Inc. (Cinergy) tendered for filing a Market-Based Service Agreement under Cinergy's Market-Based Power Sales Standard Tariff-MB (the Tariff) entered into between Cinergy and Louisiana Generating LLC (LaGen).

Cinergy and LaGen are requesting an effective date of May 1, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Texas-New Mexico Power Company

[Docket No. ER01–1982–000]

Take notice that on May 7, 2001, Texas-New Mexico Power Company (TNMP) tendered for filing the following service agreements under its open access transmission tariff: Non-Firm Point-to-Point Service Agreement between TNMP and Public Service Company of Colorado, dated March 28, 2001; Non-Firm Point-to-Point Service Agreement between TNMP and El Paso Merchant Energy, L.P., dated March 29, 2001; and Non-Firm Point-to-Point Service Agreement between TNMP and Cargill-Alliant, LLC, dated May 1, 2001.

TNMP requests waiver of the Commission's prior notice requirement to permit the service agreements to become effective on the date(s) listed above.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. California Independent System Operator Corporation

[Docket No. ER01–1983–000]

Take notice that on May 7, 2001, the California Independent System Operator Corporation, tendered for filing a Participating Generator Agreement between the ISO and Madera Power, LLC for acceptance by the Commission.

The ISO states that this filing has been served on Madera Power, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective April 27, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. California Independent System Operator Corporation

[Docket No. ER01–1984–000]

Take notice that on May 7, 2001, the California Independent System Operator Corporation, tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Madera Power, LLC for acceptance by the Commission.

The ISO states that this filing has been served on Madera Power, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective April 27, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Cinergy Services, Inc.

[Docket No. ER01–1985–000]

Take notice that on May 7, 2001, Cinergy Services, Inc. (Provider) tendered for filing a Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Provider and NRG Power Marketing Inc. (Customer).

Provider and Customer are requesting an effective date of April 20, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Niagara Mohawk Power Corporation

[Docket No. ER01–1986–000]

Take notice that on May 7, 2001, Niagara Mohawk Power Corporation, pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's regulations, tendered for filing acceptance of certain interconnection agreements and a transmission owners agreement in connection with the sale of various interests in Unit 1 of the Nine Mile Point nuclear plant and Unit 2 of the Nine Mile Point nuclear plant located in Scriba, Oswega County, New York. Further information regarding this contemplated sale is available in the files of the Commission under Docket No. EC01–75–000.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Nine Mile Point Nuclear Station, LLC

[Docket No. ER01–1987–000]

Take notice that on May 7, 2001, Nine Mile Point Nuclear Station, LLC (Nine Mile LLC) tendered for filing, pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's regulations, a Joint Interconnecting Facilities Operating Agreement for Nine Mile Point Nuclear Station Unit No. 2 by and between Nine Mile LLC and Long Island Lighting Company (d/b/a LIPA).

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Duke Energy Lee, LLC

[Docket No. ER01–1988–000]

Take notice that on May 7, 2001, Duke Energy Lee, LLC (Duke Lee) tendered for filing its proposed Emergency Redispatch Tariff. The tariff provides for the dispatch of the Duke Lee Generation Facility during emergencies by Commonwealth Edison Company (ComEd), the utility with which the facility is interconnected.

Duke Lee requests that the proposed tariff become effective on May 9, 2001 the date that the first unit of the facility is expected to go into commercial

operation. Duke Lee has served copies of the filing on the Illinois Commerce Commission and ComEd, the only customer under the proposed tariff.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Southwest Power Pool, Inc.

[Docket No. ER01–1989–000]

Take notice that on May 7, 2001, Southwest Power Pool, Inc. (SPP) tendered for filing on behalf of its members revised pages to the currently effective version of its tariff (SPP Tariff) intended to institute certain changes to accommodate the implementation of retail access in Texas and elsewhere, and to update or clarify other portions of the Tariff.

SPP seeks an effective date of June 1, 2001, for these changes, consistent with the commencement of the retail access pilot program in Texas.

Copies of this filing have been served on all affected state commissions, SPP customers, and SPP members.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Avista Corp.

[Docket No. ER01–2000–000]

Take notice that on May 7, 2001, Avista Corporation (AVA) tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements for Short-Term Firm and Non-Firm and Point-To-Point Transmission Service under AVA's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8 with Conoco Gas and Power Marketing. AVA requests the Service Agreements be given an effective date of April 20, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Alliant Energy Corporate Services, Inc.

[Docket No. ER01–2001–000]

Take notice that on May 7, 2001, Alliant Energy Corporate Services, Inc. (Alliant Energy Corporate Services) on behalf of IES Utilities Inc. (IES), Interstate Power Company (IPC) and Wisconsin Power and Light Company (WPL) collectively the Alliant Energy Operating Companies, tendered for filing six copies of Negotiated Capacity Transaction (Agreement) between IES, IPC and WPL for the period May 1, 2001 through April 30, 2002. The Agreement was negotiated to provide service under the Alliant Energy System Coordination and Operating Agreement among IES Utilities Inc., Interstate Power Company, Wisconsin Power and Light Company and Alliant Energy Corporate Services.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. The Detroit Edison Company

[Docket No. ER01–2002–000]

Take notice that on May 7, 2001, The Detroit Edison Company (Detroit Edison) tendered for filing Service Agreements (Service Agreements) for Short-term Firm and Non-Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1. These Service Agreements are between Detroit Edison and Mirant Americas Energy Marketing, LP, dated as of March 29, 2001. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made effective as rate schedules as of April 30, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. The Detroit Edison Company

[Docket No. ER01–2003–000]

Take notice that on May 7, 2001, The Detroit Edison Company (Detroit Edison) tendered for filing Service Agreements (Service Agreements) for Short-term Firm and Non-Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1. These Service Agreements are between Detroit Edison and Allegheny Energy Supply Company, LLC dated as of April 20, 2001. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made effective as rate schedules as of May 21, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. The Detroit Edison Company

[Docket No. ER01–2005–000]

Take notice that on May 7, 2001, The Detroit Edison Company (Detroit Edison) tendered for filing Service Agreements (Service Agreements) for Short-term Firm and Non-Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1. These Service Agreements are between Detroit Edison and Consumers Energy d/b/a Consumers Energy Traders dated as of February 13, 2001. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made effective as rate schedules as of March 14, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. The Detroit Edison Company

[Docket No. ER01–2006–000]

Take notice that on May 7, 2001, The Detroit Edison Company (Detroit Edison) tendered for filing a Service Agreement (Service Agreement) for Short-term Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1. This Service Agreement is between Detroit Edison and First Energy Services Corporation, dated as of March 30, 2001. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made effective as rate schedules as of April 30, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. The Detroit Edison Company

[Docket No. ER01–2007–000]

Take notice that on May 7, 2001, The Detroit Edison Company (Detroit Edison) tendered for filing Service Agreements (Service Agreements) for Short-term Firm and Non-Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1. These Service Agreements are between Detroit Edison and Exelon Generation Company, LLC dated as of April 23, 2001. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made effective as rate schedules.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. The Detroit Edison Company

[Docket No. ER01–2008–000]

Take notice that on May 7, 2001, The Detroit Edison Company (Detroit

Edison) tendered for filing Service Agreements (Service Agreements) for Short-term Firm and Non-Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1. These Service Agreements are between Detroit Edison and Wisconsin Electric Power Company dated as of February 13, 2001. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made effective as rate schedules as of March 14, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. The Detroit Edison Company

[Docket No. ER01–2009–000]

Take notice that on May 7, 2001, The Detroit Edison Company (Detroit Edison) tendered for filing a Service Agreement (Service Agreement) for Short-term Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1. This Service Agreement is between Detroit Edison and Quest Energy, LLC, dated as of February 1, 2001. The parties have not engaged in any transactions under the Service Agreement prior to thirty days to this filing.

Detroit Edison requests that the Service Agreement be made effective as rate schedules as of March 2, 2001.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12396 Filed 5–16–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP00–129–000 and CP00–132–000]

Horizon Pipeline Company, L.L.C., Natural Gas Pipeline Company of America; Notice of Availability of the Environmental Assessment for the Proposed Horizon Project

May 11, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by Horizon Pipeline Company L.L.C. (Horizon) and Natural Gas Pipeline Company of America (Natural) in the above-referenced dockets.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of the following proposed natural gas transmission facilities:

- Approximately 28.5 miles of new 36-inch-diameter pipeline and leased firm capacity on 42 miles of existing pipeline facilities;
- Approximately 0.13 mile of new 24-inch-diameter piping, auxiliary piping, and valves at Natural's existing Compressor Station 113;
- Approximately 12,590 horsepower (hp) of additional compression at Compressor Station 113;
- Approximately 0.05 mile of new 20-inch-diameter lateral;
- Approximately 0.01 mile of new 12-inch-diameter lateral;
- Four meter stations;
- Two mainline block valves;
- Three taps; and
- Modified station pipping at Natural's existing Streamwood Meter Station.

The purpose of the proposed facilities is to provide a firm capacity of 380 thousand dekatherms per day (MDth/d) of natural gas that would accommodate the continued growth in demand for additional competitively-priced gas supply in northern Illinois.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. 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 comments to: Secretary, Federal Energy, Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Gas Group 1, PJ–11.1;
- Reference Docket Nos. CP00–129–000 and CP00–132–000; and
- Mail your comments so that they will be received in Washington, DC on or before June 6, 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 you will need to create an account which can be created by clicking on "Login to File" and then "New User Account."

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

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 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 Internet 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. 01–12401 Filed 5–16–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File Application for a New License

May 11, 2001.

Take notice that the following notice of intent has been filed with the Commission and is available for public inspection:

a. Type of filing: Notice of Intent to File an Application for New License.

b. Project No: 2150.

c. Date filed: April 16, 2001.

d. Submitted By: Puget Sound Energy.

e. Name of Project: Baker River Hydroelectric Project.

f. Location: On the Baker River, a tributary of the Skagit River, in Whatcom and Skagit Counties, near Concrete, WA. The project is on Federal Lands in the Mt. Baker-Snoqualmie National Forest.

g. Filed Pursuant to: Section 15 of the Federal Power Act, 18 CFR 16.6.

h. Pursuant to Section 16.19 of the Commission's regulations, the license is required to make available the information described in Section 16.7 of the regulations. Such information is available from the licensee at Puget Sound Energy, Inc., 411–108 Ave NE, OBC–14W, Bellevue, WA 98004. Contact Lloyd Pernela, 425–462–3507.

i. FERC Contact: Steve Hocking, (202) 219–2656, *steve.hocking@ferc.fed.us.*

j. Expiration Date of Current License: April 30, 2006.

k. Project Description: The project includes two dams, two reservoirs, and two powerhouses. The present installed capacity and propose relicensed capacity is 162.1 megawatts (MW).

l. the licensee states its unequivocal intent to submit an application for a new license for Project No. 1971. Pursuant to 18 CFR 16.9(b)(1) each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by April 30, 2004.

A copy of the notice of intent is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The notice 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.

David P. Boergers,

Secretary.

[FR Doc. 01–12399 Filed 5–16–01; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE & TIME: Tuesday, May 22, 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.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 01–12532 Filed 5–15–01; 11:18 am]

BILLING CODE 6715–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01090]

Building Environmental Health Services Capacity in State and Local Departments of Public Health; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for "Building Environmental Health Services Capacity in State and Local Departments of Public Health." This program addresses the "Healthy People 2010" priority areas of environmental health, public health infrastructure, and education and community-based programs. The purpose of the program is for state and local public health departments to plan, implement, expand, and evaluate their environmental public health activities built on a framework that is based on the ten Essential Public Health Services (see: www.health.gov/phfunctions/public.htm), ten Essential Environmental Health Services, and Core Competencies for Effective Practice of Environmental Health (see Addendum).

B. Eligible Applicants

Applications may be submitted by state and local health departments or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, federally recognized Indian tribal governments, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or any other form.

C. Availability of Funds

Approximately $1,000,000 is available in FY 2001 to fund approximately five awards. It is expected that the average award will be $200,000, ranging from $150,000 to $250,000. It is expected that the awards will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress towards the development of the model demonstration program and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities listed under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Create a comprehensive, state-of-the-art environmental health services program built on the framework of the ten Essential Public Health Services, ten Essential Environmental Health Services, and the Core Competencies for Effective Practice of Environmental Health.

b. Train, where necessary, health department staff and others who are responsible for implementing and carrying out the activities associated with building and expanding capacity to deliver comprehensive, state-of-the-art environmental public health services, based on the ten Essential Public Health Services, ten Essential Environmental Health Services, and the Core Competencies for Effective Practice of Environmental Health.

c. Plan, conduct, and coordinate the environmental health services with other health department units (e.g., epidemiology, chronic disease, etc.), governmental agencies (i.e., Environmental Protection Agency) and community-based organizations (CBOs) (e.g., environmental health advocacy groups, environmental justice organizations) that will result in the development, reorganization, or expansion of the health department's environmental health services program based on the ten Essential Public Health Services, ten Essential Environmental Health Services, and the Core Competencies for Effective Practice of Environmental.

d. Carry out process and outcome evaluations for the program undertaken.

e. Disseminate findings.

2. CDC Activities

a. Provide technical assistance and consultation, if necessary, to the award recipient to refine the project plan, data and information collection and analysis instruments.

b. Provide technical consultation, as requested, on systems planning and program development.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. The application will be evaluated on the Evaluation Criteria listed, so it is important to follow them in developing the program plan. The narrative should be no more than 30 double-spaced pages, printed on one side, with one-inch margins, and no more than a 12-point Courier font. Number each page consecutively and provide a complete table of contents. The total number of pages should not exceed 60, including the appendix. The application must be submitted unstapled and unbound. In developing the application, the applicant must also include a one-page, double-spaced abstract that describes the project. It should be placed before the budget and narrative sections.

The application should:

1. Describe the applicant's agency and its position within the governmental structure;

2. Describe how the project will be administered, including job descriptions for all project positions and the curriculum vitae of all key administrative and technical staff;

3. Describe its operational plan, with long- and short-range objectives and provide a realistic timetable to build or expand capacity to deliver comprehensive, state-of-the-art environmental health services. The plan should be based on the ten Essential Public Health Services, ten Essential Environmental Health Services, and Core Competencies for Effective Practice of Environmental Health.

4. Contain a comprehensive evaluation scheme to measure process and outcome. The outcome evaluation should focus on the: (1) Reduction of environmentally related risk factors known to contribute to disease, and/or (2) the impact on incidence and prevalence of environmentally induced illness and disease.

F. Submission and Deadline

Letter of Intent (LOI)

A one-page letter of intent (LOI) is requested to enable CDC to determine the level of interest in the announcement. Include name, address, and telephone number for key contact, and provide a brief description of the proposed project.

The LOI is requested on or before June 16, 2001. Submit the LOI to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available at the following Internet address: www.cdc.gov or in the application kit. On or before July 16, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of the application.

Deadline

Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date; or

(2) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications

Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Understanding the Problem (15 Points)

The extent to which the applicant understands the public health, social, and economic consequences of inadequate environmental health services in their community based upon health and demographic indicators.

2. Objectives and Methods (15 Points)

a. The extent to which the applicant has developed sound, feasible objectives that are consistent with the activities described in this announcement and are specific, measurable, and time-framed.

b. The extent to which the applicant describes the specific activities and methods to achieve each objective.

c. The extent to which the proposed time-table for developing the demonstration model is clearly defined. It should include a tentative work plan and time table for the remaining years of the proposed project.

3. Program Development Plan (30 Points)

a. The extent to which the applicant's program development plan is clear, feasible, scientifically sound, and describes the approach and activities necessary to carry out the health department's role in providing essential environmental health services under the three core functions of assessment, policy development, and assurance.

b. The extent to which the applicant has demonstrated its ability to develop a comprehensive, state-of-the art environmental health program based on the ten Essential Public Health Services, ten Essential Environmental Health Services, and the Core Competencies for Effective Practice of Environmental Health. Each element will be specifically evaluated in terms of how it applies directly to the provision or delivery and improvement of environmental health services.

4. Coordination and Collaboration (10 Points)

The extent to which the applicant involves collaborators in the development of the demonstration model. This includes describing its relationship with other health department components and government agencies, academia, and CBOs as evidenced by letters of support, memoranda of agreement, and other documented evidence.

5. Project Management and Staffing (15 Points)

The extent to which the applicant documents skills, ability, and experience of key health department staff who will be responsible for developing, implementing, and carrying out the requirements of the demonstration model. Specifically, the applicant should: (a) Describe health department staff roles in the development and implementation of the model, their specific responsibilities and their level of effort and time commitment. It should provide assurances that positions to be filled by the applicant's personnel system will be done within reasonable time after receiving funding.

6. Program Evaluation (15 Points)

a. The evaluation plan should describe useful and appropriate strategies and approaches to monitor and improve the quality, effectiveness, and efficiency of the demonstration model.

b. The extent to which the applicant proposes to measure the overall impact of the demonstration model in terms of its contribution to improving the delivery of environmental health services, as may be evidenced by the reduction of environmentally related risk factors known to contribute to disease, and/or the impact on incidence and prevalence of environmentally induced illness and disease.

7. Budget Justification (Not Scored)

The extent to which the budget is clearly explained, adequately justified, and is reasonable and consistent with the stated objectives and planned activities.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of:

1. Semi-annual progress reports which are due within 30 days of the end of each six-month reporting period;

2. The financial status report which is due no more than 90 days after the end of the budget period; and

3. The final financial and performance reports which are due no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement.

AR–7—Executive Order 12372 Review
AR–9—Paperwork Reduction Act Requirements
AR–10—Smoke-Free Workplace Requirements
AR–11—Healthy People 2010
AR–12—Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Sections 301 and 317 of the Public Health Service Act [42 U.S.C. Sections 241 and 247], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address: www.cdc.gov by clicking on "Funding" then "Grants and Cooperative Agreements."

To obtain additional information, contact: Virginia Hall-Broadnax, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Mailstop E–13, 2920 Brandywine Road, Suite 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2761, Email address: vdh2@cdc.gov.

For scientific technical assistance, contact: Patrick O. Bohan, Acting Chief, Environmental Health Services, Division of Emergency and Environmental Health Services, National Center for Environmental Health, Centers for Disease Control and Prevention, Mail Stop: F–30, 4770 Buford Highway, N.E., Atlanta, Georgia 30341–2724, Telephone: (770) 488–7303, Email: pbohan@cdc.gov.

For programmatic assistance, contact: Jerry M. Hershovitz, Special Assistant to the Director for Program Development, Division of Emergency and Environmental Health Services, National Center for Environmental Health, Centers for Disease Control and Prevention, Mail Stop: F–30, 4770 Buford Highway, N.E., Atlanta, Georgia 30341–2724, Telephone: (770) 488–4542, Email: jhershovitz@cdc.gov.

Dated: May 11, 2001.

John L. Williams

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12416 Filed 5–16–01; 8:45am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01157]

Public Health Disease Surveillance Initiative; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a one year grant program for the State of Delaware, Department of Health and Social Services, Public Health Disease Surveillance Initiative. This program addresses the "Healthy

People 2010" focus area of Immunization and Infectious Diseases.

The purpose of the program is to build an integrated data management system that will allow the sharing of core data elements needed by the state to effectively fulfill their responsibilities for the surveillance and reporting of communicable diseases.

B. Eligible Applicants

Assistance will be provided only to the State of Delaware, Department of Health and Social Services, Public Health Disease Surveillance Initiative. No other applications are solicited. Eligibility is limited to the Delaware Department of Health and Social Services because fiscal year 2001 Federal appropriations specially directs the Centers for Disease Control and Prevention (CDC) to award to the Department of Health funds to build an integrated disease surveillance system.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or other form.

C. Availability of Funds

Approximately $1,843,000 is available in FY 2001 to fund the award. It is expected that the award will begin on or about July 15, 2001, and will be made for a 12-month budget period within a project period of one year.

D. Where To Obtain Additional Information

To obtain additional information, contact: Juanita Crowder, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: 770–488–2734, Email address: Jcrowder@cdc.gov.

For program technical assistance, contact: Barbara W. Kilbourne, R.N., M.P.H., Deputy, Integrated Health Information Systems, Office of the Director, Centers for Disease Control and Prevention, Mailstop D–68, Atlanta, GA 30333, 404–639–7860 (main#) ext. 7243 (pvt. line), 404–639–7770 (fax), Email address: Bkilbourne@cdc.gov.

Dated: May 11, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12417 Filed 5–16–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01156]

Network-Based Surveillance System Initiative; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a one-year grant program for the University of New Mexico in Albuquerque, Emerging Infectious Disease Center. This program addresses the "Healthy People 2010" focus area of Immunization and Infectious Diseases.

The purpose of the program is to build a center that will allow the unique interdisciplinary expertise of multiple institutions, as well as national laboratories, be applied to epidemics and other instances of emerging infectious diseases. The intent of a center is to develop a network-based surveillance system to understand, detect, intervene and prevent emerging epidemics by working at the intersection of public health.

B. Eligible Applicants

Assistance will be provided only to the University of Mexico in Albuquerque. No other applications are solicited. Eligibility is limited to the University of New Mexico because fiscal year 2001 Federal appropriations specifically directs the Centers for Disease Control and Prevention (CDC) to award this University funds to develop a network-based surveillance system.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or other form.

C. Availability of Funds

Approximately $921,000 is available in FY 2001 to fund the award. It is expected that the award will begin on or about July 15, 2001, and will be made for a 12-month budget period within a project period of one year.

D. Where To Obtain Additional Information

To obtain additional information, contact: Juanita Crowder, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: 770–488–2734, Email address: JCrowder@cdc.gov.

For program technical assistance, contact: Barbara W. Kilbourne, R.N., M.P.H., Deputy, Integrated Health Information Systems, Office of the Director, Centers for Disease Control and Prevention, Mailstop D–68, Atlanta, GA 30333, 404–639–7860 (main#) ext. 7243 (pvt. line), 404–639–7770 (fax), Email address: BKilbourne@cdc.gov.

Dated: May 11, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12421 Filed 5–16–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01047]

Cancer Prevention and Control Programs; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for grant programs entitled "Cancer Prevention and Control Programs". This program addresses the "Healthy People 2010" focus area of Cancer.

The purpose of the program is to improve and to promote health among at-risk cancer populations and to reduce cancer morbidity and mortality.

B. Eligible Applicants

Assistance will be provided only to the organizations listed below. No other applications are solicited. The Conference Report H.R. 4577, Consolidated Appropriations Act, 2001, specified these funds for the organizations listed below. No other applications are solicited or will be accepted.

1. Healthcare Association of New York to develop an integrated model for the delivery of comprehensive breast cancer services ($1,590,558).

2. Health Choice Network, Miami/Dade County, Florida to administer the Jesse Trice Cancer Prevention Project ($404,540).

3. East Tennessee State University, Cancer Prevention Research Center, James H. Quillen College of Medicine to

address cancer care in the rural Appalachian region ($876,663).

4. University of Rhode Island, Cancer Prevention Research Center to provide interactive interventions to at-risk populations ($856,672).

5. Sisters of Charity Health Care System, to ensure that patients have access to early detection of gastrointestinal cancers ($175,144).

6. Marin County, California to evaluate high incidence of breast cancer in the San Francisco Bay Area ($202,745).

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $4,106,322 is available in FY 2001 to fund six awards. It is expected that the award will begin on or about August 1, 2001, and will be made for a 12-month budget period within a one year project period. Funding estimates may change.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address http://www.cdc.gov. Click on "Funding" then "Grants and Cooperative Agreements."

To obtain business management technical assistance, contact: Glynnis Taylor, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2752, E-mail address: gld1@cdc.gov.

For program technical assistance, contact: Susan True, M.Ed., Branch, Chief, Program Services Branch, Division of Cancer Prevention and Control,National Center for Chronic Disease Prevention and Health, Promotion (NCCDPHP), 4770 Buford Highway, NE, MS K–57, Atlanta, Georgia 30341,Telephone: (770) 488–4880, E-mail address: smt7@cdc.gov.

Dated: May 11, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12423 Filed 5–16–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01038]

Notice of Availability of Funds; Cooperative Agreement for 2001 National Breast and Cervical Cancer Early Detection Program

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for the National Breast and Cervical Cancer Early Detection Program (NBCCEDP). This program addresses the "Healthy People 2010" priority area related to cancer.

The purpose of the NBCCEDP is to apply a State, territorial, or tribal public health approach to increase access to and use of screening services. The NBCCEDP was established through the Breast and Cervical Cancer Mortality Prevention Act of 1990 (Public Law 101–354) and provides screening services for low income women. Funded programs will establish a comprehensive breast and cervical cancer early detection screening program that includes the following program components: breast and cervical cancer screening, tracking, follow-up and case management; public education and outreach; professional education; quality assurance and improvement; surveillance and evaluation; coalitions and partnerships; and management, hereafter referred to as the NBCCEDP program components.

The President has committed the nation to an ambitious goal: by the year 2010, to eliminate the disparities in health status experienced by racial and ethnic minority populations. The NBCCEDP has been established to move closer to this goal by addressing the deficits in breast and cervical cancer screening and management among these women.

B. Eligible Applicants

Assistance will be provided only to the official health departments of States or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, and federally recognized Indian Tribal governments. In consultation with States, assistance may be provided to political subdivisions of States.

States and Tribes currently receiving CDC funds under Program Announcement 96023, entitled 1996 National Breast and Cervical Cancer Early Detection Program, are eligible to apply for funding under this announcement.

1. The following States and Territories are not eligible to apply:

a. American Samoa, California, Colorado, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Carolina, South Carolina, Texas, and West Virginia, which are funded under Program Announcement 718 entitled National Breast and Cervical Cancer Early Detection Program.

b. Alaska, Arizona, Arkansas, Connecticut, Florida, Georgia, Illinois, Iowa, Kansas, Louisiana, Maine, Massachusetts, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhodes Island, Utah, Vermont, Washington, Wisconsin, Puerto Rico, and Guam, which are funded under Program Announcement 99052 entitled National Breast and Cervical Cancer Early Detection Program.

2. The following Tribes are not eligible to apply:

a. Consolidated Tribal Health Project, Inc. (CA) and Southeast Regional Health Consortium (AK), which are funded under Program Announcement 718 entitled National Breast and Cervical Cancer Early Detection Program.

b. Arctic Slope Native Association (AK), Cherokee Nation (OK), Cheyenne River Sioux Tribe (OK), Poarch Band of Creek Indians (AL), South Central Foundation (AK), and South Puget Intertribal Planning Agency (WA), which are funded under Program announcement 99052 entitled National Breast & Cervical Cancer Early Detection Program.

C. Availability of Funds

1. Funds Available for States

Approximately $22,421,667 is available in FY 2001 to fund approximately 15 States and the District of Columbia. It is expected that awards will range from $600,000 to $4,000,000.

2. Funds Available for Territories and Tribes

Approximately $5,400,000 is available in FY 2001 to fund approximately 9 Territories or Tribes. It is expected that awards will range from $200,000 to $1,000,000.

It is expected that awards will begin on September 30, 2001, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards for funded projects within an approved project period will be made on the basis of disease burden, performance, and the availability of funds.

3. Direct Assistance

Applicants may request Federal personnel as direct assistance, in lieu of a portion of financial assistance.

4. Requirements Related to Use of Funds

a. *60/40 Requirement:* Not less than 60 percent of cooperative agreement funds must be expended for screening, tracking, follow-up and the provision of appropriate support services such as case management. Cooperative agreement funds supporting public education and outreach, professional education, quality assurance and improvement, surveillance and program evaluation, coalitions and partnerships, and management may not exceed 40 percent of the approved budget. [Section 1503(a)(1) and (4) of the PHS Act, as amended] Further information about the 60/40 distribution is provided in the NBCCEDP Policies and Procedure Manual, Section II, beginning on page 10. The NBCCEDP Policies and Procedures Manual can be accessed through the Internet at http://www.cdc.gov/cancer/nbccedp or the program technical assistant contact listed in Section M, "Where to Obtain Additional Information."

b. *Inpatient Hospital Services:* Cooperative agreement funds must not be expended to provide inpatient hospital or treatment [1] services [Section 1504(g) of the PHS Act, as amended]. Refer to the NBCCEDP Policies and Procedures Manual, Section IV, "Reimbursement Policies for Screening and Diagnostic Services," beginning on page 1, for additional information about allowable screening and diagnostic services.

c. *Administrative Expenses:* Not more than 10 percent of the total funds awarded may be expended annually for administrative expenses. These administrative expenses are in lieu of and replace indirect costs. [Section 1504(f) of the PHS Act, as amended.] Administrative expenses are considered a portion of the 40 percent component of the budget.

D. Recipient Financial Participation Requirement

Recipient financial participation is required for this program in accordance with the authorizing legislation. Section 1502(a) and (b)(1), (2), and (3) of the PHS Act, as amended, requires matching funds from non-Federal sources in an amount not less than $1 for each $3 of Federal funds awarded under this program. However, Title 48 of the U.S. Code 1469a(d) requires DHHS to waive matching fund requirements for Guam, U.S. Virgin Islands, American Samoa and the Commonwealth of the Northern Mariana Islands up to $200,000.

Matching funds may be cash or equivalent in-kind or donated services, including equipment, fairly evaluated. Contributions may be made directly or through donations from public or private entities. Public Law 93–638 authorizes tribal organizations contracting under the authority of Title I and compacting under the authority of Title III to use funds received under the Indian Self-Determination Act as matching funds.

Applicants may also designate as State, Territory, or Tribe matching funds any non-Federal amounts expended pursuant to Title XIX of the Social Security Act for the screening, tracking, follow-up and case management of women for breast and cervical cancers.

Matching funds may not include: (1) Payment for treatment services or the donation of treatment services; (2) services assisted or subsidized by the Federal government; or (3) the indirect or overhead costs of an organization.

In determining the matching fund contribution, applicants should calculate the average amount of non-Federal contributions toward breast and cervical cancer programs and activities for the two year period preceding the first Federal fiscal year of funding for NBCCEDP. This amount is referred to as Maintenance of Effort (MOE). Only those non-Federal contributions in excess of the MOE amount may be considered as matching funds. Supplanting existing program efforts with Federal or non-Federal sources is not allowable.

Costs used to satisfy the matching requirements are subject to the same prior approval requirements and rules of allowability as those which govern project costs supported by Federal funds. All costs used to satisfy the matching requirements must be documented by the applicant and will be subject to audit. Specific rules and regulations governing the matching fund requirement are included in the OMB Circular A–87 "Cost Principles for State, Local and Indian Tribal Governments" and PHS Grants Policy Statement, Section 6.

For further information about the matching fund requirement, see the NBCCEDP Policies and Procedures Manual, Section II, pages 19–21 and page 35.

E. Requirements of The Breast and Cervical Cancer Mortality Prevention Act of 1990 (Public Law 101–354) and Related Amendments

1. *Required Screening Services:* Programs must ensure that screening and rescreening procedures are available for both breast and cervical cancers and include a clinical breast exam, mammography, pelvic exam and Pap test. [Section 1503(a)(2)(A) and (B).]

2. *Screening Procedures:* If a new or improved, and superior, screening procedure becomes widely available and is recommended for use, this superior procedure will be utilized in the program. [Section 1503(b) of the PHS Act, as amended.]

3. *Priority for Low-income Women:* Eligibility for screening services under the NBCCEDP is limited to uninsured or under insured [2] women at or below 250 percent of the Federal poverty line. The official poverty line is established by the Director of the Office of Management and Budget (OMB) and revised by the Secretary of DHHS in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1991 [Section 1504(a) of the PHS Act, as amended]. Policies related to eligibility for screening are detailed in the NBCCEDP Policies and Procedures Manual, Section IV.

4. *Medical Referrals:* Programs are required to provide appropriate referrals for medical treatment of women screened in the Program and to ensure, to the extent practicable, the provision of appropriate, affordable [3] and timely

[1] Treatment is defined as any medical or surgical intervention recommended by a clinician, and provided for the management of a diagnosed condition.

[2] CDC, through its delegation from the Secretary, is tasked with implementing its programs. Therefore, when questions regarding the programs and the statutes behind them arise, CDC may provide definitions or explanations of what the statute as a whole, or terms contained therein, mean, in order to ensure proper implementation of its programs. CDC is entitled to deference in its interpretation of such statutes. CDC interprets "low income women" to include those that are "uninsured" and "underinsured." For the NBCCEDP, CDC defines an uninsured woman as one who has no health insurance and an underinsured woman as one who meets at least one of the following criteria: (1) A woman who has health insurance but whose coverage does not, to any extent, reimburse for the allowable screening or diagnostic procedure; (2) a woman who cannot afford her insurance provider's deductible or required co-payment for the allowable screening or diagnostic procedure; (3) a woman whose insurance supports the allowable screening and diagnostic procedure but at intervals greater than those recommended by the NBCCEDP; and (4) a woman who does not have reasonable access to a provider included under her insurance coverage.

[3] CDC, through its delegation from the Secretary, is tasked with implementing its programs. Therefore, when questions regarding the programs

diagnostic and treatment services [Section 1501(a)(2) of the PHS Act, as amended.] The Breast and Cervical Cancer Treatment and Prevention Act (BCCTPA) of 2000 (Public Law 106–354) amends Title XIX of the Social Security Act to give States the option to provide Medicaid coverage to women who have been screened under the NBCCEDP and found to have breast or cervical pre-cancerous conditions or cancer. Additional information about this law can be obtained from the following web site: http://www.cdc.gov/cancer/nbccedp.

5. *Service Delivery Area:* Programs are required to establish breast and cervical cancer screening services throughout the State, Territory, or Tribe. [Section 1504(c)(1) of the PHS Act, as amended.] Funds may not be awarded under this announcement unless the State, Territory, or Tribe involved agrees that services and activities will be made available throughout the State, Territory, or Tribe, including availability to members of any Indian Tribe or tribal organization (as such terms are defined in Section 4 of the Indian Self-Determination and Education Assistance Act). CDC may waive [Section 1504 (c)(2) of the PHS Act, as amended] this requirement if it is determined that compliance by the State, Territory, or Tribe would result in an inefficient allocation of resources with respect to carrying out a comprehensive breast and cervical cancer early detection program [as described in Section 1501(a)]. A request from the recipient outlining appropriate and detailed justification would be required before the waiver is approved.

6. *Payer of Last Resort:* Funds may not be awarded under this announcement unless the State, Territory, or Tribe involved agrees that funds will not be expended to make payment for any item or service that will be paid or can reasonably be expected to be paid by:

a. Any State, Territory, or Tribe compensation program, insurance policy, or Federal or State, Territory, or Tribe health benefits program.

b. An entity that provides health services on a prepaid basis. [Section 1504(d)(1) and (2) of the PHS Act, as amended.]

7. *Medicare Limit for Reimbursement of Services:* The amount paid by a State, Territory, or Tribe for a screening procedure may not exceed the amount that would be paid under part B of Title XVIII of the Social Security Act (Medicare)[Section 1501(b)(3) of the PHS Act, as amended].

8. *Limitation on Imposition of Fees for Services:* Funds may not be awarded under this announcement unless the State, Territory, or Tribe involved agrees that if charges are to be imposed on clients for the provision of services or program activities, such fees/charges for allowable screening and diagnostic evaluation will be:

a. Assessed according to a schedule of fees made available to the public [Section 1504(b)(1) of the PHS Act, amended];

b. Adjusted to reflect the income of the woman screened [Section 1504(b)(2) of the PHS Act, as amended.]; and

c. Totally waived for any woman with an income of less than 100 percent of the Federal poverty line [Section 1504(b)(3) of the PHS Act, as amended].

Additionally, the schedule of fees/charges should not exceed the maximum allowable charges established by the Medicare Program administered by the Health Care Financing Administration (HCFA). Fee/charge schedules should be developed in accordance with guidelines described in the interim final rule (42 CFR Parts 405 and 534) which implements Section 4163 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) which provides limited coverage for screening mammography services.

9. *Quality Assurance Requirements:* Cooperative agreement funds may not be awarded [under Section 1501(a)(5) of the PHS Act, as amended] unless the State, Territory, or Tribe involved agrees to assure, in accordance with the applicable law, the quality of screening procedures provided.

a. All facilities conducting mammography screening procedures funded by the Program must be MQSA certified (Mammography Quality Standards Act of 1992). [Section 1503 (c) of the PHS Act, as amended]. Additional information about quality assurance is included in the NBCCEDP Policies and Procedures Manual, Section II, page 14.

b. All facilities conducting cervical screening procedures funded by the Program must be CLIA certified (Clinical Laboratory Improvement Amendments of 1988). Pathologists participating in the Program must record their findings using the Bethesda System. [Section 1503(d) of the PHS Act, as amended] Additional information about quality assurance is included in the NBCCEDP Policies and Procedures Manual, Section II, page 14.

10. *Grantee Contracting:* If a non-profit private entity and a private entity that is not a non-profit entity both submit applications to a State/Tribe/Territory, the State/Tribe/Territory may give priority, based on a competitive review process, to the application submitted by the non-profit private entity in any case in which the State/Tribe/Territory determines that the quality of such application is equivalent to the quality of the application submitted by the other private entity [Section 1501(b) of the PHS Act, as amended].

F. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Implement a comprehensive breast and cervical cancer early detection screening program that includes the NBCCEDP program components delineated in the Purpose, Section A [Section 1501(a)(1–6)]. Descriptions of the NBCCEDP program components, including each component's minimum core expectations, are provided in Attachment 1.

b. Attend and participate in sponsored events: Attendance at sponsored training, meetings, site visits, reverse site visits, and conferences is required. Funds may be included in the budget request for this purpose.

c. Convene a Program Directors' meeting at least once a year for information-sharing and problem-solving.

2. CDC Activities

Provide technical assistance to Grantees to support their planning, implementation and evaluation of each NBCCEDP program component. Technical assistance from CDC may address:

a. Practical application of Public Law 101–354, including amendments to the law;

b. Design and implementation of program components;

c. Interpretation of current scientific literature related to the early detection of breast and cervical cancer;

d. Interpretation of program outcome, screening and surveillance data;

e. Overall operational planning and program management.

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and the statutes behind them arise, CDC may provide definitions or explanations of what the statute as a whole, or terms contained therein, mean, in order to ensure proper implementation of its programs. CDC is entitled to deference in its interpretation of such statutes. Because the NBCCEDP gives priority to serving low-income women, CDC interprets "appropriate referrals" to also mean "affordable referrals."

3. Assist With Training on Selected Topics

4. Conduct Site Visits

Program Consultants may conduct site visits or coordinate reverse site visits to assess program progress and/or mutually resolve problems.

G. Application Content

Use the information in the Requirements (Section E), Recipient Activities (Section F and related attachments), and Evaluation Criteria (Section G) sections to develop the application content. Applications will be evaluated on the criteria listed in Section G. Because this is a competitive program announcement, CDC requires Applicants to submit certain data and performance indicators in order that it be considered in making funding decisions. The application, including budget, justification and appendices, should be no more than 125 double-spaced unbound pages, printed on one side of 8 ½ x 11″ paper, suitable for photocopying, with one inch margins and 12 point font. Applicants should number each page and include a header with the Applicant's program name. Please interpret the maximum page limits as a ceiling, rather than a goal.

1. Executive Summary (Maximum 4 Pages)

The applicant should provide a clear, concise summary to include the: (1) Need for the program; (2) number and characteristics of women to be screened; (3) requested amount of Federal funding; and (4) past performance indicating the applicant's capability to implement the program.

2. Background and Need (Maximum 6 Pages, Including Matrix)

The applicant should describe:

a. The State, Territory, or Tribal breast and cervical cancer age-adjusted mortality rates averaged over five years and ranked nationally (States should use SEER or State Cancer Registry data for the period 1993–1997);

b. The State, Territory, or tribal incidence rates for breast and cervical cancer by age, race, and ethnicity (where available) (States should use data from their Cancer Registries for 1998 or the most recent year available);

c. The number of women who are at or below 250 percent of the Federal poverty level and uninsured, by age (18–39; 40–49; 50–64; 65+) and racial/ethnic distribution (if possible, use 1990 Census data, unless 2000 Census data is available); and

d. The unmet screening and rescreening needs of uninsured and under-insured women (where available).

Applicants are encouraged to present these data (a–d above) using the Background and Need matrix, Attachment 2.

e. The priority populations for screening, including supporting data and/or justification for their selection. Broadly, priority populations can be described as women who are racial, ethnic and/or cultural [4] minorities, such as American Indians, Alaska Natives, African-Americans, Hispanics, Asian and Pacific Islanders, lesbians, women with disabilities, and women who live in geographically or culturally isolated communities in urban and rural areas. The term priority populations, as defined above, will be used throughout this document.

Breast and cervical cancer death rates vary by race and ethnicity; therefore, applicants must review related state and local morbidity and mortality rates to identify specific priority populations in need of breast and cervical cancer screening in their geographic area. Programs should aim to eliminate racial health disparities by prioritizing populations that are under screened and/or disproportionately affected by breast and/or cervical cancer for recruitment and enrollment.

Regardless of the geographic area, priority for breast cancer screening should be given to women age 50 to 64 years of age. Priority for cervical cancer screening should be given to rarely [5] or never screened women.

f. The specific barriers to screening services that impede women in the priority populations from participating in breast and cervical cancer screening and diagnostic services.

3. Capability for Program Implementation (Maximum 10 Pages, Not Including Letters of Commitment)

a. Applicants should address their capability to implement the proposed activities as measured by their accomplishments as part of an existing or past NBCCEDP program or relevant past experiences funded by other sources.

(1) States, Territories, or Tribes currently receiving NBCCEDP funds should detail their accomplishments in operating a comprehensive breast and cervical cancer early detection program. Applicants should address accomplishments in program and fiscal management, infrastructure development, and service delivery by summarizing progress in meeting NBCCEDP fiscal year 2001 Program Progress Indicators.[6] These program progress indicators are listed in the NBCCEDP Policies and Procedures Manual, Section III, beginning on page 3. Applicants should use the most recent data available to summarize these indicators.

(2) Territories and Tribes not currently receiving CDC NBCCEDP funds should address relevant past experiences in conducting any of the NBCCEDP program components for cancer control, chronic disease control or other relevant areas.

b. *Letters of Commitment:* Applicants should include letters of commitment (dated within the last three months) from key partners, participants, and community leaders that detail their commitment to and participation in the proposed program. If the applicant is a Tribe, also include either of the following documentation, as appropriate: (1) A signed and dated tribal resolution supporting the application from the Indian Tribe served by the project. If the applicant includes more than one Indian Tribe, resolutions from all Tribes to be served must be included; or (2) A letter of support for the application from the Board of Directors of an Urban Indian organization(s) or Indian Health organization(s), signed by the Board Chairman.

c. *Other Accomplishments:* Applicants should include information about any other accomplishments that reflect capability and capacity for implementing a breast and cervical cancer early detection program.

4. Work Plan (Maximum 30 Pages)

The applicant should develop a detailed work plan that, for each NBCCEDP program component, describes: proposed goals; measures of success related to goals; specific, measurable, attainable, realistic and time-phased objectives; and activities to attain the objectives. The minimum core expectations for each program component should be addressed in the work plan. Be reminded that descriptions of the NBCCEDP program

[4] Cultural minorities are defined as communities which, in order to preserve or portect cultural or religious beliefs or practices, limit contact with other people or the larger community.

[5] Rarely screened is defined by the NBCCEDP as a woman who has not received a Pap test during the past five years.

[6] Program Progress Indicators have been developed to provide a systematic aproach for rapid assessment of program progress. Program progress indicators are defined as performance measures used to track critical processes over time to signify progress toward a particular goal or outcome of the program.

components are included as Attachment 1.

The work plan should include a time table for program implementation that specifies dates for the accomplishment of all proposed activities. Applicants are encouraged to use the NBCCEDP work plan template available through the Internet at http://www.cdc.gov/cancer/nbccedp/training/index.htm. This template is included in the 30-page limit but may be single spaced.

Applicants should include an attachment to the work plan with realistic screening projections for fiscal year 2001–2002 that are based on past screening performance. Screening projections should be provided with the following detail: the number of women to be screened by the program by age, race, ethnicity and other identified priority populations (applicant's cultural minorities identified in the Background and Need section as priority populations). In addition, the applicant should include a projection of the number of rarely and never screened women to receive a Pap test. Projected screening levels for racial and ethnic populations should be based on population estimates of the number of women in the Program area who meet NBCCEDP age and income eligibility guidelines, as well as past screening performance. Applicants are encouraged to present the screening projections using the Screening Projections matrix, Attachment 3. Applicants with current NBCCEDP funding from CDC should provide a brief narrative justification that includes recent screening data supporting the projections.

If the applicant has submitted a request to the HCFA and received approval to provide Medicaid coverage for treatment to women screened under the NBCCEDP with breast or cervical cancer, or pre-cancerous conditions of the breast or cervix, complete Attachment 4, the Breast and Cervical Cancer Prevention and Treatment Act Form.

5. Organizational Structure (Maximum 15 Pages)

The applicant should provide the following supporting documents related to organizational structure:

a. An organizational chart (can be single spaced) indicating the placement of the proposed Program in the department or organization and the structure of the proposed breast and cervical cancer early detection program management and staffing;

b. Documentation of available resources in the State, Territory, or Tribe for the payment or reimbursement of breast and cervical cancer screening, including the Medicaid program;

c. The proposed schedule of fees and charges for breast and cervical cancer screening and diagnostic services, consistent with maximum Medicare reimbursement rates, if fees will be imposed (single line spacing is acceptable). Include a description of the use of the proposed schedule of fees and charges in the Program. In States, Territories, or Tribes where there are multiple Medicare rates and a single reimbursement rate is being proposed, the applicant must provide justification for approval.

d. Documentation of how the State, Territory, or Tribe will assure that funds will be used in a cost-effective manner.

e. A description of how the State, Territory, or Tribe will establish or enhance linkages with their State Cancer Registry program if the Applicant has a State Registry with the North American Association of Central Cancer Registries (NAACCR) certification. For more information about Cancer Registries see http://www.cdc.gov/cancer/npcr, http://www-seer.ims.nci.nih.gov, and for NAACCR certification see http://www.NAACCR.org.

6. Source Data for Matching Requirement (Maximum 5 Pages)

a. *Maintenance of Effort:* The applicant should detail the average amount of non-Federal dollars expended for breast and cervical cancer programs and activities made by a State, Territory, or Tribe for the two year period preceding the first Federal fiscal year of NBCCEDP funding. This amount will be used to establish the maintenance of effort baseline for current and future match requirements.

b. *Sources of Match:* The applicant should detail the State, Territory, or tribal allowable sources of matching funds for the Program and the estimated amounts from each. The applicant should document the procedures for determining the value of non-cash matching funds. Further information about the Matching Funds Requirement can be found in the NBCCEDP Policies and Procedures Manual, Section II, pages 19–21 and page 35.

c. *Documentation of Match Received:* The applicant should describe procedures for documenting the actual amount of match received.

7. Budget With Justification (Maximum 7 Pages)

a. Provide a detailed line item-budget (can be single spaced) with a separate narrative justification (for both Federal and non-Federal funds) of all proposed operating expenses consistent with the program activities described in this announcement. The budget may include line items for personnel, fringe benefits, travel, contractors, consultants, equipment, administrative, and other expenses. Not less than 60 percent of Federal funds will be expended for screening, tracking, follow-up and other support services such as case management. Not more than 10 percent of Federal funds will be expended for administrative expenses. The following information is required for all contracts: (1) Name of contractor; (2) method of selection; (3) period of performance; (4) scope of work; (5) method of accountability; and (6) itemized budget with justification for each contract.

b. A detailed line-item breakdown of the 60/40 distribution should be provided. A sample 60/40 budget breakdown is included in the NBCCEDP Policies and Procedures Manual, Section II, page 38. For further information about the 60/40 requirement, please refer to the NBCCEDP Policies and Procedures Manual, Section II, page 10.

c. The applicant should submit a completed Screening and Diagnostic Worksheet which is used to estimate the amount of funding needed to reimburse providers for allowable clinical services provided to eligible women served in your program. Further information about the Screening and Diagnostic Worksheet is provided in the NBCCEDP Policies and Procedures Manual, Section IV, pages 21–25. An electronic version of the Screening and Diagnostic Worksheet, an EXCEL spreadsheet, may be obtained through the program technical assistance contact listed in Section M, Where to Obtain Additional Information.

d. To request Federal, direct-assistance assignees, include:

(1) Number of assignees requested;

(2) Description of the position and proposed duties;

(3) Ability or inability to hire locally with financial assistance;

(4) Justification for request;

(5) Organizational chart and name of intended supervisor;

(6) Opportunities for training, education, and work experiences for assignees; and

(7) Description of assignee's access to computer equipment for communication with CDC (e.g., personal computer at home, personal computer at workstation, shared computer at workstation on site, shared computer at a central office).

H. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available in the application kit and at the following Internet address: www.cdc.gov/od/pgo/forminfo.htm

On or before June 27, 2001 submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

I. Evaluation Criteria (100 Points)

Applications will be evaluated individually against the criteria below which reflect an emphasis on disease burden and program quality. Funding for Tribes and Territories will be competitive based on review by a panel of independent reviewers. All applicants representing States will be funded. State applications will undergo technical acceptability reviews by independent reviewers.

1. Background and Need (20 Points)

The extent and clarity with which the applicant describes the disease burden, size of potentially eligible population, unmet screening needs, size, selection and characteristics of the priority populations and extent to which the applicant has identified barriers to care that can be addressed through program activities.

2. Capability for Program Implementation (10 Points)

The extent to which the applicant appears likely to be successful in implementing the proposed activities as measured by:

a. Prior performance reflected by the NBCCEDP program progress indicators or, for applicants not currently receiving NBCCEDP funds, their success as measured by relevant past experiences in conducting a similar program(s).

b. Letters of commitment from key partners, participants, and community leaders that detail their commitment to and participation in the proposed program. If the applicant is a Tribe, the inclusion of a tribal resolution(s) or letter of support from the Board of Directors is required.

c. Other accomplishments that reflect the capability of the applicant to implement a breast and cervical cancer screening program.

3. Work Plan (60 Points)

The degree of comprehensiveness and quality of the work plan represented by the goals, measures of success related to goals, objectives and activities to attain the objectives for each of the NBCCEDP program components and a time table for program implementation. The degree of comprehensiveness in addressing the minimum core expectations for each NBCCEDP program component within the work plan as detailed in the descriptions included as Attachment 1. The extent to which realistic screening projections are provided based on the applicant's past screening history (if applicable) and detailed separately for Pap tests and mammograms by the number of women to be screened for the 2001–2002 program year by age, race, ethnicity, and other priority populations identified by the applicant in the Background and Need section. In addition, the extent to which realistic screening projections are provided for Pap tests among rarely and never screened women.

4. Organizational Structure (10 Points)

The appropriateness of the applicant's organizational structure; documentation of the applicant's available resources for the payment or reimbursement of breast and cervical cancer screening, including the Medicaid program; the proposed schedule of fees consistent with Medicare reimbursement rates, if applicable; the assurance that funds will be used in a cost effective manner; and the description of linkages between the proposed program and the State Cancer Registry, if applicable.

5. Source Data for Matching Requirement (Not Weighted)

The extent to which the applicant provides clear evidence of maintenance of effort, sources of match, and a means to document actual match received.

6. Budget With Justification (Not Weighted)

The extent to which the proposed budget is reasonable, justified, consistent, and in compliance with this program announcement.

7. Human Subjects (Not Weighted)

The extent to which the application adequately addresses the requirement of 45 CFR Part 46 for the protection of human subjects. An application will be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable.

J. Technical Reporting Requirements

Provide CDC with the original plus two copies of:

1. Semiannual progress reports, to be submitted no later than 90 days after each semiannual reporting period. All manuscripts published as a result of the work supported in part or whole by the cooperative agreement must be submitted with the progress reports.

2. Financial status report (FSR), no more than 90 days after the end of each budget period.

3. Final financial report and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For descriptions of each, see the Appendix.

AR–1—Human Subjects Requirement
AR–2—Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7—Executive Order 12372 Review
AR–9—Paperwork Reduction Act Requirements
AR–10—Smoke-Free Workplace Requirements
AR–11—Healthy People 2010
AR–12—Lobbying Restrictions

K. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 1501, 1502, 1507 and 1509 [42 U.S.C. 300k, 42 U.S.C. 300l, and 42 U.S.C. 300n–3] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.919.

L. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov. Click on "Funding" then "Grants and Cooperative Agreements."

Should you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Glynnis Taylor, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Program Announcement 01038, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2752, Email address: gld1@cdc.gov.

For program technical assistance, contact: Amy DeGroff, Program Services Branch, Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop K–57, Atlanta, GA 30341–3724, Telephone number: (770) 488–4248, Email address: asd1@cdc.gov.

Dated: May 11, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12420 Filed 5–16–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01131]

National Programs That Build the Capacity of Schools To Prevent Foodborne Illness Through Coordinated School Health Programs; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for National Programs That Build the Capacity of Schools to Prevent Foodborne Illness and Other Important Health Problems Through Coordinated School Health Programs. This program addresses the "Healthy People 2010" focus areas of Educational and Community-Based Programs.

The purpose of this program is to develop a national program to build the capacity of state and local education and health agencies, and others to prevent foodborne illness and other important health problems as part of a coordinated school health program.

B. Eligible Applicants

Assistance will be provided to national organizations that are private health, education, or social service agencies (professional, or voluntary); qualify as a non-profit 501(c)(3) entity; have the capacity and experience to assist their local affiliates; and have affiliate offices or local, state, or regional membership constituencies in a minimum of ten states and territories.

National organizations that are funded currently by CDC/Division of Adolescent and School Health (DASH) under program announcements 99023, 97065, 00026, 00081, 00109, 00719, 98885, 99072, 00079 or 00618 are not eligible for this program announcement. A listing of CDC/DASH funded national organizations that are not eligible to apply is provided in Appendix I.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $168,000 is available in FY 2001 to fund one award. It is expected that the awards will begin on or about August 15, 2001, and will be made for a 12-month budget period within a project period of up to four years. Funding estimates may change.

Priority will be given to organizations whose direct constituencies are directors, administrators and managers of school food service programs. Affiliate offices and local, state, or regional membership constituencies may not apply in lieu of, or on behalf of, their parent national office.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under section 1 (Recipient Activities), and CDC will be responsible for conducting activities under section 2 (CDC Activities) as listed below:

1. Recipient Activities

a. Collaborate with constituents; state and local education, health, agriculture, and social service agencies; non-governmental partners; and federal government agencies to implement a national strategy to prevent foodborne illness as part of coordinated school health programs.

b. Establish specific, measurable, and realistic goals, objectives and evaluation measures to reduce and/or manage school foodborne illness outbreaks.

c. As a part of the National Food Safety Initiative, establish an operational plan that includes collaborating with federal and state agencies and others engaged in food safe schools program-related activities, and developing or using existing discipline-specific training materials that build the capacity of school food service personnel to implement the school food service component of a model coordinated school food safety schools program, and to integrate that component with other components.

d. Participate in quarterly meetings of the National Coalition for Food Safe Schools.

e. Developing or using existing discipline-specific training materials for accompanying a model coordinated school food safe schools program for constituents.

f. Disseminating programmatic information through appropriate methods, such as:

1. Sharing materials that would reduce school foodborne illness or manage an outbreak through a variety of mechanisms (e.g. clearinghouses, conferences and/or workshops, newsletters, annual progress reports, etc.);

2. Sharing project-related news and information with state and local education and health agencies, national organizations, and others through the Internet, other computer networks, the mail and at workshops and conferences.

g. Educating and enabling school food service managers, decision makers and others who are members of the national organizations to act individually and collectively to support locally determined programs to reduce/manage school foodborne illness outbreaks.

h. Educating and enabling families, media, businesses, and others in the community to act individually and collectively to support coordinated school health programs to reduce/manage school foodborne illness outbreaks.

i. Building the capacity of community agencies and parents to establish and/or maintain programs that reduce/manage school foodborne illness outbreaks;

j. Providing technical assistance and training to professionals and parents to use proven, effective strategies and programs to prevent behaviors that place elementary through college-aged young people at risk for foodborne illness.

k. Participating in national conferences to promote model food safe schools programs.

2. CDC Activities

a. Coordinate with national, state, and local education, health and social service agencies as well as other relevant organizations in planning and conducting national strategies designed to prevent foodborne illness through the development and implementation of a national food safe schools program.

b. Assist with programmatic consultation and guidance related to program planning, implementation, and evaluation; assessment of program objectives; and dissemination of successful strategies, experiences, and evaluation reports.

c. Participate in planning meetings with national, state, and local education agencies and other appropriate agencies to address issues and program activities related to improving coordinated school health programs; and strengthen the

capacity of postsecondary institutions and youth-serving agencies to prevent foodborne illness through coordinated food safe schools programs.

d. Assist with the evaluation of program activities.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than twenty (20) double-spaced pages, printed on one side, with one-inch margins, and unreduced font.

1. Background (No More Than 4 Pages)

a. Describe your organization's current structure (mission, goals and its membership or affiliates and their geographic representation). Describe how that structure can support food safe schools programs that are part of a coordinated school health program, including the potential role of your organization's primary constituency in a food safe schools initiative. Identify current gaps in the existing structure and implementation of school-based food safety programs, and discuss how your constituency can enhance the state and local education agencies' ability to deliver an optimal food safe schools program.

b. Describe your organization's experience in assisting the state education, health and agriculture departments' current school food safety program. Include in your description, experience assisting these agencies' use of existing protocols, training, and educational materials available from the U.S. Department of Agriculture (USDA) and the Food and Drug Administration (FDA) related to food safety and foodborne illness outbreaks. Describe barriers within state and local education agencies to reporting foodborne illnesses and outbreaks and indicate how your organization and constituency can build that capacity.

c. Describe your organization's experience in developing and implementing policy related to food safety programs and reporting school-based foodborne outbreaks. Discuss potential limitations to existing policies and describe, if any, the need for new policies that address school food safety and the prevention of foodborne illness.

d. Describe your organization's experience in developing and implementing model policy, curricula, training programs, surveillance activities, and evaluation protocols. Describe your organization's experience providing technical assistance and training. Priority will be given to organizations whose direct constituencies are directors, administrators and managers of school food service programs.

2. Operational Plan (No More Than 8 Pages)

a. Provide long-term (four-year) goals and short-term (one-year) objectives for the proposed project that build the capacity of coordinated food safe schools programs nationwide. The objectives should be specific, time-phased, measurable, and realistic. The proposed objectives should compliment ongoing activities related to "From Farm to Table: A National Food Safety Initiative" (see the U.S. government food safety information gateway website http://www.foodsafety.gov for more information on activities related to the National Food Safety Initiative).

b. Submit a plan that proposes first year activities to build the capacity of your organization and others to support and/or implement a model food safe schools program designed to prevent foodborne illness in schools. Include a time-line for the completion of each component or major activity that describes who will do what by when. Examples of acceptable activities can include, but are not limited to the Recipient Activities described in section D Program Requirements.

3. Administration and Management (No More Than 2 Pages)

a. Describe how the proposed professional staff will contribute to the overall food safe schools program. Describe how the current or proposed placement of each staff will assure that program implementation among state education, health, and agriculture agencies, their affiliates, and partners is coordinated with your organization's constituents.

b. Demonstrate that existing or proposed professional staff have or will have the necessary background and qualifications for the proposed responsibilities. Indicate how your organization can ensure that for each professional working on the project, their position description requires the appropriate level of education and experience related to the level of responsibility and expected duties. A curriculum vitae (no more than two pages for each staff) should be included in an appendix to the application for existing staff who are assigned to this project.

c. In an appendix to the application, provide an organizational chart that identifies lines of communication, accountability, reporting, authority, and describes management and control systems within your organization.

4. Collaboration (No More Than 2 Pages)

a. Describe the organization's current collaboration with states' health, education, and agricultural departments. Describe your organization's collaboration with other federal agencies, national non-profit organizations, foundations, community-based groups, and others who have an interest in or whose mission includes food safety programs, whether their efforts are school-based or not. Discuss how your collaborative relationship can strengthen this project. Indicate who you propose to collaborate with to implement the proposed Operational Plan. Include letters of participation and support documenting these anticipated collaborations. In particular, describe how the proposed activities compliment or build on the existing food safety programs.

b. Describe collaborative activities or anticipated relationships with other national organizations who support coordinated school health programs. Include letters of participation and support documenting these anticipated collaborations. In particular, describe how your organization can compliment the activities of existing national organizations and how their expertise can support this proposed project.

5. Evaluation Plan (No More Than 2 Pages)

Describe plans to evaluate progress in meeting objectives and conducting activities during the budget period. Specify what data will be obtained and present a plan that includes how the data will be obtained, disseminated, and used to improve the program. Indicate in the plan who will do what and when.

6. Budget and Justification (No More Than 2 Pages)

Provide a detailed budget and line-item justification for all operating expenses that are consistent with proposed objectives and planned activities. The budget should include funds for travel to two CDC meetings during the budget year.

F. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available in the application kit and at the following Internet address: http://forms.psc.gov/

On or before June 15, 2001 submit the application to the Grants Management

Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing).

Late: Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following evaluation criteria by an independent review group appointed by CDC.

1. Background and Need (30 Points)

a. (10 points) The extent to which the applicant describes the current organizational structure, how that structure can support food safe schools programs, and identifies current gaps in the existing structure of education agencies that decreases the agencies' ability to deliver an optimal food safe schools program.

b. (5 points) The extent to which the applicant discusses barriers within education agencies to using existing resources that contribute to the prevention of foodborne illnesses and describes experience assisting state agencies' use of existing protocols, training, and educational materials.

c. (5 points) The extent to which the applicant describes experience in developing policy related to food safety programs and reporting school-based foodborne outbreaks, discusses gaps in existing policy and discusses a proposal for new policy.

d. (10 points) The extent to which the applicant describes experience in supporting, developing and implementing model policy, curricula, training programs, surveillance activities, and evaluation protocol and describes the organization's experience providing technical assistance and training. Priority will be given to organizations whose direct constituencies are directors, administrators and managers of school food service programs.

2. Operational Plan (30 Points)

a. (15 Points) The extent to which the applicant provides long-term (four-year) and short-term (one-year) objectives for the proposed project that build the capacity of food safe schools programs nationwide. The objectives must be specific, time-phased, measurable, and realistic. The proposed objectives should compliment ongoing activities related to "From Farm to Table: A National Food Safety Initiative" (see the U.S. government food safety information gateway website, http://www.foodsafety.gov, for more information on activities related to the National Food Safety Initiative).

b. (15 points) The extent to which the applicant submits a plan that builds the capacity of its constituents and others to assist state and local education agencies in establishing a model food safe schools program designed to prevent foodborne illness and includes a time-line for the completion of each component or major activity that describes who will do what by when. The extent to which the proposed activities are comparable to the identified Recipient Activities described in Section D Program Requirements.

3. Administration and Management (15 Points)

a. (5 points) The extent to which the applicant provides job descriptions for existing and proposed professional positions and describes how the proposed professional staff will contribute to the overall food safe schools program. The extent to which the applicant describes how the current or proposed placement of each staff will assure that program implementation is coordinated with the organization's constituents and partners.

b. (5 points) The extent to which the applicant demonstrates that existing or proposed staff have or will have the necessary background and qualifications for the proposed responsibilities. The extent to which the applicant provides a curriculum vitae for existing staff who are assigned to this project.

c. (5 points) The extent to which the applicant provides an organizational chart that identifies lines of communication, accountability, reporting, authority, and describes management and control systems within the organization and discusses how the proposed placement of the project in the organization will increase its likelihood of success.

4. Collaboration (20 Points)

a. (15 points) The extent to which the applicant describes current collaboration with health, education, and/or agricultural agencies, the organization's collaboration with other federal agencies, national non-profit organizations, foundations, community-based groups, and others who have an interest in or whose mission includes food safety programs, and discusses how the current collaborative relationships can compliment the proposed project. The extent to which the applicant indicates proposed collaborative relationships that will support the proposed operational plan and includes letters of participation and support documenting these anticipated collaborations especially with proposed activities.

b. (5 points) The extent to which the applicant describes collaborative activities or anticipated relationships with other national organizations who support model food safe schools programs, and includes letters of participation and support documenting these anticipated collaborations. The extent to which the applicant describes how the organization can compliment the activities of existing organizations and how their expertise can support this proposed project.

5. Evaluation Plan (5 Points)

The extent to which the applicant describes their plan to evaluate progress in meeting objectives and conducting activities during the budget period including their ability to describe: (a) What data will be obtained; (b) how the data will be obtained; (c) how evaluation information will be disseminated; (d) how the evaluation data will be used to improve the program; and (e) who will implement the evaluation plan and when.

6. Budget and Justification (Not Scored)

The extent to which the budget is reasonable and consistent with the purposes and activities of the program.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Annual progress report.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial report and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–7—Executive Order 12372 Review

AR–8—Public Health System Reporting Requirement

AR–9—Paperwork Reduction Act Requirements

AR–10—Smoke-Free Workplace Requirements

AR–11—Healthy People 2010

AR–12—Lobbying Restrictions

AR–14—Accounting System Requirements

AR–15—Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a), 311(b) and (c), and 317 (k)(2) [42 U.S.C. 241(a), 243(b) and (c), and 247(b)(K)(2)] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.938.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address http://www.cdc.gov Click on "Funding" then "Grants and Cooperative Agreements."

If you have questions after reviewing the contents of all documents, business management technical assistance may be obtained from: Cynthia Collins, Grants Management Specialist, Grants Management Office, Program Announcement 01131, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Rd, Rm 3000, MS E–18, Atlanta, Georgia 30341–4146, Telephone: (770) 488–2757, Email: coc9@cdc.gov.

For program technical assistance, contact: Mary Vernon Smiley, Chief, Special Populations Section, Program Development and Services Branch, Division of Adolescent and School Health, National Center for Chronic Disease Prevention and Health Promotion, Program Announcement 01131, Centers for Disease Control and Prevention, 4770 Buford Highway, NE MS K–31, Atlanta, GA 30341, Telephone: 770–488–6199, Email: mev0@cdc.gov.

Dated: May 11, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 01–12422 Filed 5–16–01; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01122]

National Programs That Build the Capacity of State and Local Health and Education Agencies To Reduce the Burden of Asthma Among Youth; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for National Programs That Build the Capacity of State and Local Health and Education Agencies to Reduce the Burden of Asthma Among Youth. This program addresses the "Healthy People 2010" focus areas of Educational and Community-Based Programs, and Respiratory Diseases 24.1 to 24.8. Background information can be found in Appendix I.

The purpose of this announcement is to develop a national program that builds the capacity of state and local health and education agencies to reduce the burden of asthma and other important health problems among youth.

B. Eligible Applicants

Assistance will be provided to national organizations that are private health, education, or social service agencies (professional or voluntary); qualify as a non-profit 501(c)(3) entity; have the capacity to assist their local affiliates; and have affiliate offices or local/state/or regional membership constituencies in a minimum of 10 states and territories. Affiliate offices and local/state/or regional membership constituencies may not apply in lieu of, or on behalf of, their parent national office because organizations must have the capacity to influence the professional actions of their constituencies at the national level.

National organizations that are funded currently by CDC/Division of Adolescent and School Health (DASH) under program announcements 98005, 97065, 99023, 99072, 00026, 00079, 00081, 00109, 00618, 00719, are not eligible for this program announcement. A listing of these organizations is provided in Appendix II.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or any other form.

C. Availability of Funds

Approximately $1,000,000 is available in FY 2001 to fund approximately four awards. It is expected that the average award will be $250,000, ranging from $200,000 to $275,000. It is expected that the awards will begin on or about August 1, 2001, and will be for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Priority will be given to organizations whose direct constituents are school nurses, health care providers, school administrators, asthma and respiratory health groups and parent groups, and have the capacity to collaborate with state and local education and health agencies.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1 (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Collaborate with constituents; state and local education, health, and social service agencies; non-governmental partners; and federal government agencies to develop a national strategy to create school and community-based asthma education and management programs with the goal of reducing morbidity, mortality and school absenteeism associated with asthma and other important health problems of youth.

b. Establish specific, measurable, and realistic goals and objectives that reduce morbidity, mortality and school absenteeism associated with asthma.

c. Establish an operational plan that includes local education and health agencies collaborating with federal and state education and health agencies, and others engaged in school and community-based asthma education and management activities, in using existing or developing target-audience and discipline-specific training materials needed to effectively build the capacity of school personnel to implement a model coordinated school health program that addresses asthma education and management.

d. Build the capacity of constituents to better promote student, parent and

school staff concerning asthma education and management. Implement a model coordinated school health program addressing asthma education and management.

e. Develop or use existing discipline-specific training materials for constituents to accompany a model coordinated school health program addressing asthma education and management.

f. Evaluate the effectiveness of the program in achieving goals and objectives at the school and/or district level.

g. Disseminate and share programmatic information, projected-related news with state and local education agencies, state and local health agencies, national organizations, and others through mechanisms such as the Internet, newsletters, clearinghouses, the mail and at workshops and conferences.

h. Help schools, or other agencies that serve young people, conduct coordinated programs that prevent behaviors that place elementary through secondary school-aged young people at risk for morbidity and mortality from asthma.

i. Collaborate with other national organizations to establish and maintain initiatives to prevent behavior that place elementary through secondary school-aged young people at risk for morbidity and mortality from asthma.

j. Educate managers, leaders, teachers, school nurses, decision makers, parents, families, media, businesses, and others who are members of national organizations and/or communities to act individually and collectively to support locally determined programs to reduce morbidity, mortality and school absenteeism related to asthma and teach asthma management.

k. Build the capacity of schools, community agencies and parents to establish and/or maintain programs that teach asthma management and reduce morbidity, mortality and school absenteeism related to asthma.

l. Provide technical assistance and training to professionals and parents to use proven, effective strategies and programs to prevent behaviors that place elementary through secondary school-aged young people at risk for morbidity, mortality and absenteeism related to asthma and to educate students who are not diagnosed with asthma.

m. Participate in national conferences through presentations and workshops to promote model coordinated school health programs addressing asthma education and management.

n. Participate in meetings with national, state, and local health and education agencies and other appropriate agencies to address issues and program activities related to improving coordinated school health programs; and strengthen the capacity of youth-serving agencies to teach asthma management and reduce the burden of asthma through coordinated school health programs.

2. CDC Activities

a. Assist with planning and conducting national strategies designed to teach asthma management and reduce morbidity and mortality associated with asthma through coordinated school health programs.

b. Provide programmatic consultation and guidance related to program planning, implementation, and evaluation; assessment of program objectives; and dissemination of successful strategies, experiences, and evaluation reports.

c. Assist in planning meetings of national, state, and local education and health agencies and other appropriate agencies to address issues and program activities related to improving coordinated school health programs; and strengthen the capacity of youth-serving agencies to teach asthma management and reduce morbidity and mortality associated with asthma through coordinated school health programs addressing asthma education and management.

d. Assist in the evaluation of program activities in achieving goals and objectives at the school and/or district level.

E. Application Content

Use the information in the Purpose, Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow the criteria as you construct your program plan. The narrative should be no more than 20 double-spaced pages, printed on one side, with one-inch margins, and unreduced font.

1. Background (No More Than 4 Pages)

a. Describe your organization's current structure (mission, goals, and membership or affiliates and their geographical representation). Describe how that structure can support school-based asthma education and management programs that are part of a coordinated school health program, including the potential role of your organization's primary constituency in a school asthma education and management initiative. Identify current gaps in the existing structure and implementation of school-based asthma education and management programs and discuss how your constituency can enhance the state and local education agencies ability to deliver an optimal asthma education and management program.

b. Describe your organization's constituency experience in assisting state and local education and health departments to develop an education and management strategy for asthma and other important health problems of youth. Priority will be given to organizations whose constituencies have a direct impact on asthma education and management programs including school nurses, health care providers, school administrators, asthma and respiratory health groups and parents.

c. Describe your organization's experience in developing and implementing policy related to asthma education and management in schools. Discuss potential limitations to existing policies and describe, if any, the need for new policies that address asthma education and management.

d. Describe your organization's experience in developing and implementing model policy, curricula, training programs, surveillance activities, and evaluation protocols. Describe your organization's experience providing technical assistance and training.

2. Operational Plan (No More Than 8 Pages)

a. Provide long-term (5-year) goals and short-term (1-year) objectives for the proposed project that build the capacity of coordinated school health programs to address asthma education and management at the local level. The objectives must be specific, time-phased, measurable, and realistic. The proposed objectives should compliment ongoing activities related to the "Healthy People 2010" focus area(s) of Educational and Community-Based Programs and Respiratory Diseases 24.1 to 24.8.

b. Submit a plan that proposes first year activities to build the capacity of your organization and others to support and/or implement a model asthma education and management program designed to teach asthma management and reduce morbidity, mortality and school absenteeism associated with asthma through coordinated school health programs. Include a time-line for the completion of each component or major activity that describes who will

do what by when. Examples of acceptable activities can include, but are not limited to the Recipient Activities described in Section 1.

3. Administration and Management (No More Than 2 Pages)

a. Describe how the proposed professional staff will contribute to the overall school asthma education and management program and show on an organizational chart how the current or proposed placement of each staff will assure program implementation.

b. Demonstrate that existing or proposed professional staff have or will have the necessary background and qualifications for the proposed responsibilities and include a curriculum vitae for each proposed staff.

c. In an appendix to the application, provide an organizational chart that identifies lines of communication, accountability, reporting, authority, and describes management and control systems within your organization.

4. Collaboration (No More Than 2 Pages)

a. Describe the organization's current collaboration with local and state health and education departments. Describe your organization's collaboration with other federal agencies, national non-profit organizations, foundations, community-based groups, and others who have an interest in or whose mission includes asthma education or management programs, whether their efforts are school-based or not. Discuss how your collaborative relationship can strengthen this project. Indicate who you propose to collaborate with to implement the proposed Operational Plan. Include letters of participation and support documenting these anticipated collaborations. In particular, describe how the proposed activities compliment or build on existing asthma education or management programs.

b. Describe collaborative activities or anticipated relationships with other national organizations who support school-based health education programs including those related to asthma education and management. Include letters of participation and support documenting these anticipated collaborations. In particular, describe how your organization can compliment the activities of existing national organizations and how their expertise can support this proposed project.

5. Evaluation Plan (No More Than 2 Pages)

Describe plans to evaluate progress in meeting objectives and conducting activities during the budget period. Specify what questions will be asked, what data will be obtained and present a plan that includes how the data will be obtained, from whom, how it will be analyzed and disseminated, and used to improve the program. Indicate in the plan who will do what and by when.

6. Budget and Justification (No More Than 2 Pages)

Provide a detailed budget and line-item justification for all operating expenses that are consistent with proposed objectives and planned activities. The budget should include funds for travel to two CDC meetings during the budget year.

F. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189) on or before June 15, 2001, to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement. Forms are available in the kit and at the following Internet address: http://forms.psc.gov/

Deadline: Applications will be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing).

Late Applications: Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following evaluation criteria by an independent review group appointed by CDC.

1. Background and Need (25 Points)

a. The extent to which the applicant describes the current organizational structure, the capacity of the organization to support school-based asthma education and management programs, and identifies current gaps in the existing structure of state and local education agencies that decreases the ability of the nation's schools to deliver an optimal asthma education and management program. (10 points)

b. The extent to which the applicant discusses barriers that contribute to the morbidity and mortality associated with asthma and the prevention of asthma symptoms, describes experience in assisting state and local education agencies and health departments current school asthma education and management programs, and describes experience assisting state and local agencies use of existing protocols, training, and educational materials. Priority will be given to organizations whose direct constituents are school nurses, health care providers, school administrators, asthma and respiratory health groups and parent groups. (5 points)

c. The extent to which the applicant describes experience in developing policy and programs related to asthma education and management, discusses gaps in existing policy and programs at the state and/or local level and discusses a proposal for new policy and programs. (5 points)

d. The extent to which the applicant describes experience in using existing or developing, and implementing model policy, curricula, and training programs, and describes the organization's experience providing technical assistance and training. (5 points)

2. Operational Plan (30 Points)

a. The extent to which the applicant provides long-term (5-year) goals and short-term (1-year) objectives for the proposed project that build the capacity of coordinated school health programs to address asthma education and management at the local level. The objectives must be specific, time-phased, measurable, and realistic. The proposed objectives should compliment ongoing activities related to the "Healthy People 2010" focus area(s) of Educational and Community-Based Programs and Respiratory Diseases 24.1 to 24.8. (15 Points)

b. The extent to which the applicant submits a plan that builds the capacity of its constituents and others to assist state and local education agencies in establishing a model school asthma education and management program designed to teach asthma management and reduce morbidity, mortality and school absenteeism related to asthma through coordinated school health programs and includes a time-line for the completion of each component or major activity that describes who will do what by when. The extent to which the proposed activities are comparable to the identified Recipient Activities described in Section D Program Requirements. (15 points)

3. Administration and Management (15 Points)

a. The extent to which the applicant provides job descriptions for existing and proposed professional positions and describes how the proposed professional staff will contribute to the overall school asthma education and management program and shows on an organizational chart how the current or proposed placement of each staff will assure program implementation. (5 points)

b. The extent to which the applicant demonstrates that existing or proposed staff have or will have the necessary background and qualifications for the proposed responsibilities and includes a curriculum vitae of each staff. (5 points)

c. The extent to which the applicant provides an organizational chart that identifies lines of communication, accountability, reporting, authority, and describes management and control systems within the organization and discusses how the proposed placement of the project in the organization will increase its likelihood of success. (5 points)

4. Collaboration (20 Points)

a. The extent to which the applicant describes current collaboration with state and/or local health and education departments, the organization's collaboration with other federal agencies, national non-profit organizations, foundations, community-based groups, and others who have an interest in or whose mission includes asthma education or management programs, and discusses how the current collaborative relationships can compliment the proposed project. The extent to which the applicant indicates proposed collaborative relationships that will support the proposed operational plan and includes letters of participation and support documenting these anticipated collaborations especially with proposed activities. (15 points)

b. The extent to which the applicant describes collaborative activities or anticipated relationships with other national organizations who support school-based health education programs including asthma education and management, and provides letters of participation and support documenting these anticipated collaborations. The extent to which the applicant describes how the organization can compliment the activities of existing organizations and how their expertise can support this proposed project. (5 points)

5. Evaluation Plan (10 Points)

The extent to which the applicant describes their plan to evaluate progress in meeting objectives and conducting activities during the budget period including their ability to describe: (1) what data will be obtained; (2) how the data will be obtained; (3) from whom the data will be obtained; (4) what analysis will be conducted; (5) how evaluation information will be disseminated; (6) how the evaluation data will be used to improve the program; and (7) who will implement the evaluation plan and by when.

6. Budget and Justification (Not Scored)

The extent to which the budget is reasonable and consistent with the purposes and activities of the program.

Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of:

1. Annual progress reports.
2. Financial status report, no more than 90 days after the end of the budget period.
3. Final financial report and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the application kit.

AR–7—Executive Order 12372 Review
AR–8—Public Health System Reporting Requirement
AR–9—Paperwork Reduction Act Requirements
AR–10—Smoke-Free Workplace Requirements
AR–11—Healthy People 2010
AR–12—Lobbying Restrictions
AR–14—Accounting System Requirements
AR–15—Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a), 311(b) and (c), and 317 (k)(2) [42 U.S.C. 241(a), 243(b) and (c), and 247b(K)(2)] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.938.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov Click on "Funding" then "Grants and Cooperative Agreements."

If you have questions after reviewing the contents of all documents, business management technical assistance may be obtained from: Cynthia Collins, Grants Management Specialist, Grants Management Branch, Centers for Disease Control and Prevention (CDC), Program Announcement 01122, 2920 Brandywine Rd, Room 3000, M/S E18, Atlanta, Georgia 30341–4146,Telephone number: (770) 488–2757, E-mail: *coc9@cdc.gov*

For program technical assistance, contact: Mary Vernon-Smiley, Chief, Special Populations Program Section, Program Development and Services Branch, Division of Adolescent and School Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway, NE M/S K31, Atlanta, GA 30341, Telephone number: (770) 488–6199, E-Mail: *mev0@cdc.gov*

Dated: May 11, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12424 Filed 5–16–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01096]

Development of Prototypes for The Paul Coverdell National Acute Stroke Registry; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement for the development of prototypes for The Paul Coverdell National Acute Stroke Registry. This project addresses the "Healthy People 2010" focus area(s) related to Heart Disease and Stroke and Access to Quality Health Services.

The purpose of this program is to design and pilot test real-time data and analysis prototypes in statewide samples that will measure the delivery of care to patients with acute stroke.

The focus is on acute care which includes the process from onset of signs and symptoms through the emergency medical system or other transport to a

hospital emergency department; diagnostic evaluation; use of thrombolytic therapy when indicated by diagnosis and timeliness; other aspects of acute care; and referral to rehabilitation services for surviving cases.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Title 2 of the United States Code, Chapter 26, Section 1611states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $3,600,000 is available in FY 2001, to fund approximately 4 to 5 awards. It is expected that the average award will be $800,000, ranging from $500,000 to $1,000,000. It is expected that the awards will begin on or about August 31, 2001, and will be made for a 12-month budget period within a project period of one year. Funding estimates may change.

Funding Priority

1. Preference may be given to applications targeting states with the highest death rates for stroke.

2. Preference may be given to applications such that different geographic areas are represented.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Plan, implement, and support the operation of hospital-based, statewide stroke registries in order to collect data concerning: each patient presenting to the hospital Emergency Departments with an admitting diagnosis of stroke.

b. Establish or enhance, and regularly convene an advisory committee to assist in building a consensus, cooperation, and planning for the statewide stroke registry. Representatives may include State Health Departments, key organizations and individuals such as hospital emergency department personnel, neurologists, nurses, clinicians, and others deemed appropriate.

c. Develop a sampling plan for the selection of hospitals to participate in the statewide stroke registry prototype such that the sample is representative of the state's facilities that provide care to patients with acute stroke.

d. Establish selected hospitals to participate in the stroke registry prototype.

e. With other grantees, participate in the final selection of a standard list of data items to be used by all recipients.

f. Develop a data collection mechanism and train hospital personnel in the data collection process.

g. Develop and maintain a data system, including quality assurance mechanisms for data collection and management, to provide timely, complete and quality data.

h. Plan and implement a methodology for assessments of hospital reporting compliance, validity of diagnosis, reliability and completeness of all reporting parameters, and hospital costs required for data collection.

i. Develop and maintain the capability to securely export data.

j. Ensure secure electronic storage, to the extent possible, of all collected data including text and codes.

k. Collaborate with an independent outside audit of data completeness and quality.

l. Develop plan and use stroke registry data to improve the delivery of care to patients with acute stroke.

2. CDC Activities

a. Provide technical assistance in the development and final selection of standard data items to be used by all recipients.

b. Provide ongoing consultation and technical assistance for effective program planning and management.

c. Collaborate in establishing or endorsing program requirements for completeness, timeliness and accuracy of data.

d. Support the independent quality control audits of registry data completeness and accuracy.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 75 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

F. Submission and Deadline

Letter of Intent

The letter of intent will be used to determine the number of potential respondents and to assist CDC in coordinating the objective review process. Your letter of intent should include the following information:

1. Name
2. Organization
3. State that will be targeted for data collection

The letter of intent should be submitted on or before May 25, 2001, to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available in the application kit or at the following Internet address: http://forms.psc.gov/

On or before June 29, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late

Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

Applications will be reviewed and evaluated according to the following criteria: (Maximum 100 Points).

1. Background and Experience: (15 Points)

The extent to which the applicant describes: (a) The epidemiology of stroke in the state and rationale for consideration as a high preference state; (b) past and current registry related activities, including strengths and limitations, of health services data collection and outcomes evaluation.

2. Collaboration: (10 Points)

The extent to which the applicant: (a) Describes a current or proposed Stroke Advisory Committee; (b) describes past, current, and proposed stroke prevention activities and collaborations with relevant organizations and agencies within the state and with other states or national organizations interested in stroke prevention and stroke management; (c) provides letters of support from the State Health Department and relevant organizations.

3. Existing Resources and Sampling Plan: (20 Points)

The extent to which the applicant provides: (a) A description of all existing and in-state hospital sources that provide care to acute stroke patients; (b) a description of existing stroke registries in the state; (c) a sampling plan for the selection of hospitals such that the sample is adequate in number and representative of the state's hospitals that provide care to patients with acute stroke; (d) letters supporting willingness to participate from the selected hospitals.

4. Implementation Plan and Schedule: (30 Points)

The extent to which the major steps required for project design and implementation adequately address all recipient activities in the program requirements, are realistically described, and the project timetable displays appropriate dates for the accomplishment of specific project activities.

5. Data Utilization: (10 Points)

The extent to which the applicant provides a relevant and realistic plan to use stroke registry data to improve the delivery of care to patients with acute stroke.

6. Project Management and Staffing Plan: (15 Points)

The extent to which proposed staffing, organizational structure, staff experience and background, identified training needs or plan, and job descriptions and curricula vitae for both proposed and current staff indicate ability to carry out the purposes of the program.

7. Budget: (Not Scored)

The extent to which the applicant provides a detailed budget and justification consistent with the stated objectives and program activities.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Semiannual progress reports;
2. Financial status report, no more than 90 days after the end of the budget period; and
3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–7—Executive Order 12372 Review
AR–8—Public Health System Reporting Requirements
AR–9—Paperwork Reduction Act Requirements
AR–10—Smoke-Free Workplace Requirements
AR–11—Healthy People 2010
AR–12—Lobbying Restrictions
AR–14—Accounting System Requirements
AR–15—Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 317(k)(2) of the Public Health Service Act, [42 U.S.C. section 241], __ as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address: http://www.cdc.gov. Click on "Funding" then "Grants and Cooperative Agreements."

Should you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Van King, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2751, Email address: vbk5@cdc.gov.

For program technical assistance, contact: Wendy A. Wattigney, Cardiovascular Health Branch, Division of Adult and Community Health, NCCDPHP, 4770 Buford Highway, NE, Mailstop K47, Atlanta, Georgia 30341–3717, Telephone number: (770) 488–8149, Email address: wdw0@cdc.gov.

Dated: May 11, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–12418 Filed 5–16–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–265]

Agency Information Collection Activities: Submission For OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection.

Title of Information Collection: Independent Renal Dialysis Facility Cost Report and Supporting Regulations 42 CFR 413.20 and 42 CFR 413.24.

Form No.: HCFA–265 (OMB# 0938–0236).

Use: The Independent Renal Dialysis Facility Cost Report provides for the determination and allocation of costs to the components of the facility in order

to establish a proper basis for Medicare payment.

Frequency: Daily Recordkeeping.

Affected Public: Business or other for-profit, Not-for-Profit institutions, and State, Local or Tribal Government.

Number of Respondents: 3,085.

Total Annual Responses: 3,085.

Total Annual Hours: 604,660.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's web site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 9, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group,Division of HCFA Enterprise Standards.

[FR Doc. 01–12451 Filed 5–16–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 2001.

Name: Advisory Committee on Infant Mortality (ACIM).

Date and Time: June 25, 2001, 9 a.m.–5 p.m.; June 26, 2001, 8:30 a.m.–3 p.m.

Place: Georgetown Latham Hotel, 3000 M Street, NW., Washington, DC 20007, (202) 726–5000.

The meeting is open to the public.

Purpose: The Committee provides advice and recommendations to the Secretary of Health and Human Services on the following: Department programs which are directed at reducing infant mortality and improving the health status of pregnant women and infants; factors affecting the continuum of care with respect to maternal and child health care, including outcomes following childbirth; factors determining the length of hospital stay following childbirth; strategies to coordinate the variety of Federal, State, and local and private programs and efforts that are designed to deal with the health and social problems impacting on infant mortality; and the implementation of the Healthy Start initiative and infant mortality objectives from *Healthy People 2010.*

Agenda: Topics that will be discussed include the following: Early Postpartum Discharge; Low-Birth Weight; Disparities in Infant Mortality; and the Healthy Start Program.

Anyone requiring information regarding the Committee should contact Peter C. van Dyck, M.D., M.P.H., Executive Secretary, ACIM, Health Resources and Services Administration (HRSA), Room 18–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, telephone: (301) 443–2170.

Individuals who are interested in attending any portion of the meeting or who have questions regarding the meeting should contact Ms. Kerry P. Nesseler, HRSA, Maternal and Child Health Bureau, telephone: (301) 443–2170.

Agenda items are subject to change as priorities are further determined.

Dated; May 11, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–12493 Filed 5–16–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: April 2001

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of April 2001, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, *e.g.,* a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject city, state	Effective date
Program-Related Convictions	
Araboghli, Raphaela Ansonia, CT	05/20/2001
Arzadon, Rodrigo P Flint, MI	05/20/2001
Atikian, Vartan Taft, CA	05/20/2001
Billingslea, Charles A College Park, GA	05/20/2001
Boyce, Lila Clinton, SC	05/20/2001
Brown, Tanya Nichelle Fayetteville, NC	05/20/2001
Bun, Sothary Ryan Long Beach, CA	05/20/2001
Caplan, Steven Lee Superior, CO	05/20/2001
Capp, Sheldon N Greenwich, CT	05/20/2001
Chan, Tha Long Beach, CA	05/20/2001
Culver, Michael D Oxford, GA	05/20/2001
Doak, Bruce M Beaver, WV	05/20/2001
Dominguez, Ramon Mario Diamond Bar, CA	05/20/2001
Duramed, Inc Tampa, FL	05/20/2001
Foster, Bessie Sterling Baton Rouge, LA	05/20/2001
Gabriyelyan, Filip Taft, CA	05/20/2001
Geesaman, Barbara A Lake Wales, FL	05/20/2001
Goldstar Medical Services, Inc Tampa, FL	05/20/2001
Hamparian, Stephen R Winchester, MA	05/20/2001
Hart, Delores Williams Baton Rouge, LA	05/20/2001
Hidalgo, Eduardo Miami, FL	05/20/2001
Hopkins, Daniel Alan Royal Oak, MI	05/20/2001
Irvin, Etta M Marianna, FL	05/20/2001
Jacobs, Bryant Eugene Stone Mountain, GA	05/20/2001
Jones, Nettie Ruth Seattle, WA	05/20/2001
Keshishian, Akop Pasadena, CA	05/20/2001
Leung, Frances MA Albion, NY	05/20/2001
Lightfoot, Carolyn Edenton, NC	05/20/2001
Lopez, Jesus Felipe Zephyrhills, FL	05/20/2001
McEntee, Matthew Queens, NY	05/20/2001
McLilly, Hazel Clinton, SC	05/20/2001
Megrikyan, Sergei Pasadena, CA	05/20/2001
Mkrtchyan, Vardges W Hollywood, CA	05/20/2001
Muy, Nong Long Beach, CA	05/20/2001
Norris-Garwood, Peggy Sue	05/20/2001

Subject city, state	Effective date
Southfield, MI	
Ponce, Juan	05/20/2001
Miami, FL	
Russo, Ann	05/20/2001
Yonkers, NY	
Shah, Darshan	05/20/2001
Muttontown, NY	
Smart, James Robert	05/20/2001
Forth Worth, TX	
Townsend, Deneil Rae	05/20/2001
Sparks, NV	
United Dental Services, P C	05/20/2001
Binghamton, NY	
Vanmeter, Brent Eugene	05/20/2001
El Reno, OK	
Warren, Christine	05/20/2001
Virginia Beach, VA	
Williams, Joseph	05/20/2001
Stone Mountain, GA	
Williams, Elnor	05/20/2001
Marianna, FL	
Wynder, Rosa Anna	05/20/2001
Virginia Beach, VA	
Felony Conviction for Health Care Fraud	
Berbaum, Gerald Lee	05/20/2001
Pinckney, MI	
Lalonde, Wayne Lee	05/20/2001
Edgewater, CO	
Nortavage, Donna M	05/20/2001
Pingtown, PA	
Yannello, Jeffrey	05/20/2001
Minersville, PA	
Felony Control Substance Conviction	
Cornelius, Denice Marie	05/20/2001
Okemos, MI	
Gharrirassi, Amir	05/20/2001
Mission Viejo, CA	
Hannon, Kathleen	05/20/2001
Wilkes-Barre, PA	
Marcus, Vincent David	05/20/2001
Mechanicsburg, PA	
Payne, Arnold Jr	05/20/2001
Baltimore, MD	
Patient Abuse/Neglect Convictions	
Bartolo, Edmundo Vellagare	05/20/2001
Florence, AZ	
Baxter, Heidimarie	05/20/2001
Elyria, OH	
Bland, Benjamin	05/20/2001
Water Valley, MS	
Blue, Mishelle Deann	05/20/2001
Magalia, CA	
Carey, Karen	05/20/2001
Clearlake, CA	
Chandra, Nivrita	05/20/2001
Hayward, CA	
Chorjel, David Leon	05/20/2001
Boulder Creek, CA	
Eggins, Shonta Nayaya	05/20/2001
Alexandria, LA	
Floyd, Tanya Girette	05/20/2001
Clinton, SC	
Fullard, Hope Shawn	05/20/2001
Gresham, SC	
Gillis, Tiara	05/20/2001
Townsend, DE	
Harris, David Wayne	05/20/2001
Des Moines, IA	
Kelson, Lubelia Hoyel	05/20/2001
Gramercy, LA	
Patterson, Regina	05/20/2001
Compton, CA	
Porter, Loyce Dale	05/20/2001
Enid, OK	
Rice, John	05/20/2001
Lake Providence, LA	
Simmons, Christian	05/20/2001
Laurel, MS	
Thomas, Alberta M	05/20/2001
Vossburg, MS	
Vigil, Janis Lee	05/20/2001
Portland, OR	
Waller, Crystal	05/20/2001
Wilmington, DE	
Wilkins, Carolyn	05/20/2001
Wilmington, DE	
Conviction for Health Care Fraud	
Spencer, Sherry Alfreda	05/20/2001
Mansfield, LA	
Conviction—Obstruction of an Investigation	
Grana, Roberto	05/20/2001
Corozal, PR	
License Revocation/Suspension/ Surrendered	
Abramyan, Karine	05/20/2001
Santa Monica, CA	
Adams, Patricia Joann	05/20/2001
Richmond, IN	
Akindolie, Funmilayo D	05/20/2001
Central Falls, RI	
Allard, Sherri E	05/20/2001
Providence, RI	
Andrews, Heldina	05/20/2001
Anchorage, AK	
Arias, Tammie L	05/20/2001
Providence, RI	
Armas, Patricia Maxine	05/20/2001
Cypress, CA	
Baker, Euruegenall J	05/20/2001
St Petersburg, FL	
Baltazar, Willermo	05/20/2001
Las Vegas, NV	
Barber, Debra Jane	05/20/2001
Irving, TX	
Baskin, Howard H	05/20/2001
Fort Collins, CO	
Becker, Randy J	05/20/2001
N Miami Bch, FL	
Beech, Alma Denise	05/20/2001
Gillett, AR	
Bergeron, Michelle Speers	05/20/2001
Lake Jackson, TX	
Bierenbaum, Robert	05/20/2001
Elmira, NY	
Boyle, Donna M Chattley	05/20/2001
Maple Shade, NJ	
Branum, Karen Hoffman	05/20/2001
Fort Worth, TX	
Brigham, Susan Rauh	05/20/2001
Shamong, NJ	
Buckley, Marianne	05/20/2001
Trenton, NJ	
Burkard, Judith	05/20/2001
Asbury Park, NJ	
Burton, Maki	05/20/2001
Tyler, TX	
Burton, Amy Lynn	05/20/2001
Jacksonville, FL	
Canizio, Diane N	05/20/2001
Clark, NJ	
Cardenas, Presentacion E	05/20/2001
Long Branch, NJ	
Carmona, Agustin	05/20/2001
Florida City, FL	
Chesney, Leslie Susan	05/20/2001
Albuquerque, NM	
Click, Linda J	05/20/2001
Framingham, MA	
Coates, Christine Ann	05/20/2001
Clearwater, FL	
Coelho, Diane M	05/20/2001
Barrington, RI	
Copperman, Stuart M	05/20/2001
Merrick, NY	
Crookshank, Richard	05/20/2001
Las Vegas, NV	
Currey, Lisa Renee	05/20/2001
Floral, AR	
Davis, Eric H	05/20/2001
Weirton, WV	
Dean, Kari-Ann	05/20/2001
Middletown, RI	
Dowd, Janice Kemberling	05/20/2001
Sunbury, PA	
Droby, Paul Eric	05/20/2001
Palestine, TX	
Dubose, Charles	05/20/2001
Meridian, MS	
Edwards, Mary Annette	05/20/2001
Quitman, TX	
Evans, Julie Kay	05/20/2001
Broken Arrow, OK	
Fant, Sammie	05/20/2001
East Ely, NV	
Finucan, Thomas E Jr	05/20/2001
North East, MD	
Fleury, Diane	05/20/2001
Franklinville, NJ	
Floro, Teresita C	05/20/2001
St Peter, MN	
Fredrick, Nomi Judith	05/20/2001
Los Angeles, CA	
Gagnon, Tami A	05/20/2001
Cumberland, RI	
Gardner, Laurel J	05/20/2001
Laurel, MS	
Gillane, Donna M	05/20/2001
Blackwood, NJ	
Glavin, Keith M	05/20/2001
Falmouth, ME	
Glynn, Gayle	05/20/2001
Las Vegas, NV	
Goldberg, Barry Scott	05/20/2001
Dix Hills, NY	
Golembeski, Frank J	05/20/2001
Homestead, FL	
Grantham, Robert Edwin	05/20/2001
Bakersfield, CA	
Gremillion, Patricia Ann	05/20/2001
Plano, TX	
Griffin, Lea Ann	05/20/2001
Longview, TX	
Griffin, Gerald T	05/20/2001
Cranston, RI	
Griffin, James J	05/20/2001
Los Gatos, CA	
Haag, Polly Glee	05/20/2001
Anchorage, AK	
Handlow, Carla Rizzo	05/20/2001

Subject city, state	Effective date
Jacksonville, FL	
Hannigan, Judith	05/20/2001
Las Vegas, NV	
Harper, Charlene Denise	05/20/2001
Manila, AR	
Hasty, Angela Aleen	05/20/2001
Kerrville, TX	
Hendrickson, Linda Sue	05/20/2001
Mead, OK	
Henry, Scott Ernest	05/20/2001
Dunellon, FL	
Hetherington, Mark Arnold	05/20/2001
Lake Ozark, MO	
Hicks, Linda R	05/20/2001
Brandon, MS	
Hirsch, Gerald Paul	05/20/2001
Minersville, PA	
Holbrook, Linda A	05/20/2001
Turner, ME	
Hughes, Mardi M	05/20/2001
W Palm Beach, FL	
Hunt, Lajon	05/20/2001
Foxworth, MS	
Hutton, Charles J	05/20/2001
Philadelphia, PA	
Jenkins, Charles G	05/20/2001
Phoenix, AZ	
Johansen, Kelli J	05/20/2001
Tallahassee, FL	
Johnson, Pamela Jean	05/20/2001
E St Louis, IL	
Katz, Ryan	05/20/2001
Broomfield, CO	
Kim, Chongsu	05/20/2001
Diamond Bar, CA	
Kirk, Stacy	05/20/2001
Reno, NV	
Korpi, Jacqueline R	05/20/2001
Parma, OH	
Kupidlowski, Mary Ann	05/20/2001
Orange City, FL	
Lasater, Thomas Peter	05/20/2001
Modesto, CA	
Latiolais, Tricia	05/20/2001
St Martinville, LA	
Lavigne, Daryl G	05/20/2001
Westbrook, ME	
Lewis, Carolyn Dawn	05/20/2001
Hayward, WI	
Librizzi, Michelle H	05/20/2001
Ringoes, NJ	
Logan, Mary	05/20/2001
Bradenton, FL	
Loturco, Sue E	05/20/2001
Charlotte, TN	
Mahurin, Jennifer Kay	05/20/2001
Lubbock, TX	
Mankin, Celeste Machristie	05/20/2001
Philadelphia, PA	
Mathews, Rhonda Lynn	05/20/2001
Richfield, MN	
McMorrow, Kevin	05/20/2001
N Belgrade, ME	
Medley, Ronald Steven	05/20/2001
Anchorage, AK	
Melnichak, Barbara Anne	05/20/2001
White Oak, PA	
Merrifield, Carol Lynne	05/20/2001
Rockland, MA	
Mesick, Frank P	05/20/2001
Colchester, VT	
Miller, Kimberly S	05/20/2001
Naugatuck, CT	
Miller, Rebecca S	05/20/2001
Cromwell, IA	
Miller, Michael David	05/20/2001
Pocahontas, AR	
Miller, Minta Ann	05/20/2001
Arlington, VA	
Miller, Donald David	05/20/2001
Ogden, UT	
Mills, Sharon Inez	05/20/2001
Tyler, TX	
Mora, Rickey Estrada	05/20/2001
San Luis Obispo, CA	
Murray, Nichole M	05/20/2001
Chester, VT	
Mynster, Kim	05/20/2001
Las Vegas, NV	
Nacino, Ma Epifania C	05/20/2001
Union City, CA	
Nedwich, Patricia J	05/20/2001
Durham, NC	
Northrop, Karen A	05/20/2001
Cranston, RI	
Nyman, Jennifer	05/20/2001
Salt Lake City, UT	
Oates, Laurene Jo	05/20/2001
Sturgeon Bay, WI	
Ortiz, Rosa	05/20/2001
Moorhead, MN	
Pagotaisidro, Jeremias	05/20/2001
Ridgewood, NJ	
Palma, Dia	05/20/2001
Bloomfield, NJ	
Parashos, Linda	05/20/2001
Lindenwold, NJ	
Pashko, Robert A	05/20/2001
Anaheim, CA	
Patterson, Sharon Kay	05/20/2001
Minneapolis, MN	
Perez, Amy	05/20/2001
Manchester, CT	
Petrone, Jennifer Ann	05/20/2001
Plainfield, IL	
Pierce, Ronald D	05/20/2001
Tiptonville, TN	
Preston, Jody Lynne	05/20/2001
Chicago, IL	
Prodanovitch, Gus James	05/20/2001
Albany, NY	
Raines, Bannister Lee	05/20/2001
Baltimore, MD	
Reese, Gerrilyn M	05/20/2001
Horseheads, NY	
Reid, Jeri Lynn	05/20/2001
Vallejo, CA	
Reitzell, Sherry	05/20/2001
Grayson, LA	
Remy, Gennieveve Karl	05/20/2001
Woodbridge, VA	
Richards, Sondra S Tabor	05/20/2001
Welches, CA	
Robbins, David W	05/20/2001
Miami, FL	
Rogers, Julie Ann	05/20/2001
Peoria Hgts, IL	
Roldan, Thomas	05/20/2001
Phillipsburg, NJ	
Rollins, Christina C	05/20/2001
Mesquite, TX	
Ruggiero-Ruiz, Carole J	05/20/2001
North Haven, CT	
Rynearson, Andrew	05/20/2001
Anchorage, AK	
Santa Maria, Donna Lee	05/20/2001
Edison, NJ	
Shaw, Marvie	05/20/2001
Houston, TX	
Shephard, Elizabeth A	05/20/2001
Columbus, OH	
Shorey, Melony M	05/20/2001
Waterville, ME	
Similien, Jean Orma	05/20/2001
Providence, RI	
Simone, Susan E	05/20/2001
Burlington, VT	
Snyder, Edward Blaine	05/20/2001
Esko, MN	
Soto, Debra Jo	05/20/2001
Red Oak, TX	
Stephens, Carolyn Jeanette	05/20/2001
Petal, MS	
Stokes, Barbara L	05/20/2001
Denver, CO	
Tarbuck, Mary Lynn Graff	05/20/2001
Washington, PA	
Tarpley, Deborah Jo	05/20/2001
Houston, TX	
Taylor, Gail J	05/20/2001
Pawtucket, RI	
Traylor, Stephania Ann	05/20/2001
Highlands, TX	
Tucker, Karen	05/20/2001
Bueche, LA	
Tucker, Suzanne	05/20/2001
Colonia, NJ	
Turner, Susan Hope	05/20/2001
Mounds, IL	
Van Cleave, Jeanette Giannina	05/20/2001
Mission Viejo, CA	
Venie, Patricia	05/20/2001
Delmar, NY	
Villanueva, Josefa	05/20/2001
Galveston, TX	
Vincent, Mitzi	05/20/2001
Collins, MS	
Wade, Stacie L	05/20/2001
Streator, IL	
Wakenhut, Anne Wunch	05/20/2001
Lakeview, MI	
Walling, Georgia	05/20/2001
Frazier Park, CA	
Walls, Allan Christopher	05/20/2001
Huntsville, AL	
Wellman, Bonnie Waddell	05/20/2001
Newtown, PA	
Werren, Paul	05/20/2001
Van Nuys, CA	
Whatley, Edna D	05/20/2001
Pascagoula, MS	
Whitehead, Addie L	05/20/2001
Murrells Inlet, SC	
Williams, Pamela Lee	05/20/2001
Hartford, CT	
Wiltse, Thomas J	05/20/2001
W Sacramento, CA	
Wright, Diane D	05/20/2001
Ponde Vedra Bch, FL	
Wyatt, Amy Jo	05/20/2001
Seminary, MS	
York, Georgia K	05/20/2001
Greenville, TX	
Zajac, Patricia	05/20/2001
New Castle, PA	

Federal/State Exclusion/Suspension

An, James	05/20/2001
Los Angeles, CA	
Behrends, Gayle Ann	05/20/2001

Subject city, state	Effective date
Laguna Nigel, CA	
Dwan, Francis Alan ..... Chicago, IL	05/20/2001
Greenberg, Edmund ..... S Orange, NJ	05/20/2001
Iravedra, Luis ..... Kankakee, IL	05/20/2001
Thompson, Bob G ..... W Frankfort, IL	05/20/2001
Fraud/Kickbacks	
Asti, Maria ..... Lafayette, CO	01/30/2001
Garcia, Jesus ..... Miami, FL	11/15/1999
Goldstar Healthcare, Inc ..... Tampa, FL	05/10/2000
Heape, Alice Georgine ..... Gilbert, AZ	03/02/2001
Homed Scan (Homed Scan/ Metrol) ..... Abington, PA	03/09/2001
Homed Scan (Pulmonary Systems) ..... Abington, PA	03/09/2001
Kin, Gerald A ..... Abington, PA	03/09/2001
LTC Pharmacy, INC ..... Minonk, IL	09/28/2000
Owned/Controlled by Convicted Excluded	
Adapted Wheelchair Restoration ..... Flushing, NY	05/20/2001
Central Kings Medical ..... Brooklyn, NY	05/20/2001
Doylestown Foot Care, Inc ..... Doylestown, PA	05/20/2001
Evans Chiropractic, Ctr, Inc ..... Chagrin Falls, OH	05/20/2001
Psychiatric Liaison Consultati ... Arlington, TX	05/20/2001
Sherman Way Medical Supply Van Nuys, CA	05/20/2001
Failure To Provide Payment Information	
Brown, Earl ..... Paincourtville, LA	05/20/2001
Community Home Health Care Inc ..... Paincourtville, LA	05/20/2001
Default on Heal Loan	
Beirne, Mary Frances ..... Island Hgts, NJ	05/20/2001
Brown, Marilyn F ..... Los Angeles, CA	05/20/2001
Brown, David P Sr ..... Moore, OK	05/20/2001
Caruso, Edmund M ..... Jersey City, NJ	03/22/2001
Casselberry, Brenda L ..... Auburn, AL	05/20/2001
Christian, Cori A ..... Heber City, UT	05/20/2001
Clouse, Russell L ..... Mesa, AZ	05/20/2001
Daguplo, Diosdado L ..... La Puente, CA	05/20/2001
Dennis, Charles W ..... Peckville, PA	05/20/2001
Digregorio, Philip James ..... Danielson, CT	05/20/2001
Edwards, Tom A ..... Ft Pierce, FL	05/20/2001
Fine, Halbert C ..... Cincinnati, OH	05/20/2001
Fiore, James P ..... Santa Ana, CA	05/20/2001
Flowers, John Lee ..... Severn, MD	05/20/2001
Foster, Nathaniel W ..... Folsom, CA	05/20/2001
Green, Kevin L ..... Philadelphia, PA	05/20/2001
Hedgecorth, Julia Anne ..... Albion, MI	04/02/2001
Henley, Robert Earl ..... Bountiful, UT	05/20/2001
Katz, Steven ..... Van Nuys, CA	05/20/2001
Kohanchi, Behzad ..... Woodland Hills, CA	05/20/2001
Lamothe, David A ..... Marietta, GA	05/20/2001
Mazhar, Mark ..... Los Angeles, CA	05/20/2001
McSweeney, Kevin B ..... Ft Lauderdale, FL	05/20/2001
Meehan, Maureen T ..... Statington, PA	05/20/2001
Metcalf, John W ..... Joplin, MO	05/20/2001
Montag, Thomas F ..... Brookville, PA	05/20/2001
Mosley-House, Joan A ..... Landsdale, PA	05/20/2001
Ortiz, Robert ..... Jackson Hgts, NY	05/20/2001
Otis, Raymond J ..... Camilla, GA	05/20/2001
Perrotti, Anthony E ..... Pembroke Pines, FL	05/20/2001
Perry, Rickey G ..... Little Rock, AR	05/20/2001
Pigott, Abu G ..... Oakland, CA	05/20/2001
Poole, Gregory T ..... Fresno, CA	05/20/2001
Praet, James Firmin ..... Flagstaff, AZ	05/20/2001
Shelton, Annette Marie ..... Arlington, TX	05/20/2001
Stengel, Ronald Mitchell ..... Boca Raton, FL	05/20/2001
Stewart, Jeffrey D ..... Tulsa, OK	05/20/2001
Stickle, John Daniel ..... Aptos, CA	05/20/2001
Taddei, Kimberlee Jo ..... Milwaukee, WI	05/20/2001
Thomas, William Gregory ..... Gainesville, GA	05/20/2001
Waite, Thomas D ..... Naugatuck, CT	05/20/2001
Zierden-Landmesser, Teresa E Dingsman Ferry, PA	05/20/2001
Owners of Excluded Entities	
Grasso, John R ..... Binghamton, NY	05/20/2001

Dated: May 4, 2001.

Calvin Anderson, Jr.,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 01–12394 Filed 5–16–01; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Fogarty International Center; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Fogarty International Center Advisory Board.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Fogarty International Center Advisory Board.

Date: May 22, 2001.

Open: 8:30 a.m. to 12:00 p.m.

Agenda: Report of the Director and a presentation on development of a not for profit pharmaceutical company to address some of the gaps in drug development for developing countries. In addition, FIC staff will give presentations on a new tobacco initiative, and a historical overview of the Fogarty International Research Collaborative Award.

Place: Lawton Chiles International House, 16 Center Drive (Building 16), Bethesda, MD 20892.

Closed: 1 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Lawton Chiles International House. 16 Center Drive (Building 16), Bethesda, MD 20892.

Contact Person: Irene W. Edwards, Information Officer, Fogarty International Center, National Institutes of Health, Building 31, Room B2C08, 31 Center Drive

MSC 2220, Bethesda, MD 20892, 301–496–2075.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Information is also available on the Institute's/Center's home page: www.nih.gov/fic/about/advisory.html, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome; 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12463 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Alternative Medicine; Notice of Meeting

Pursuant to Section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the Cancer Advisory Panel for Complementary and Alternative Medicine (CAPCAM).

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Cancer Advisory Panel for Complementary and Alternative Medicine.

Date: May 21, 2001.

Open: May 21, 2001, 9:00 am to adjournment.

Agenda: The agenda will include a report on clinical trial data on Virulizen (R), an update on the Rand BSC Approach to BCS, an update on NIH initiatives for CAM and Cancer treatments, and other business of the Panel.

Place: Pooks Hill Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Richard Nahin, Ph.D., Executive Secretary, National Center for Complementary and Alternative Medicine, National Institutes of Health, 6707 Democracy Blvd, Suite 106, Bethesda, MD 20892, 301/496–7801.

The public comments session is scheduled on May 21 from 3:00 pm to 3:30 pm. Each speaker will be permitted 5 minutes for their presentation. Interested individuals and representatives of organizations are requested to notify Dr. Richard Nahin, National Center for Complementary and Alternative Medicine, NIH, 6707 Democracy Blvd, Suite 106, Bethesda, Maryland 20892, 301–496–7801, Fax 301–480–3621. Letters of intent to present comments, along with a brief description of the organization represented, should be received no later than 5:00 pm May 15, 2001. Only one representative of an organization may present oral comments. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting may be considered for oral presentation, if time permits, and at the discretion of the Chairperson. In addition, written comments may be submitted to Dr. Nahin at the address listed above up to ten calendar days (May 31, 2001) following the meeting.

Copies of the meeting agenda and the roster of members will be furnished upon request by Dr. Richard Nahin, Executive Secretary, CAPCAM, National Institutes of Health, 6707 Democracy Blvd, Suite 106, Bethesda, Maryland 20892, 301 496–7801, Fax 301–480–3621.

This meeting is being published less than 15 days prior to the meeting due to scheduling conflicts.

Dated: May 9, 2001.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 01–12469 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Eye Institute.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL EYE INSTITUTE, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Eye Institute,

Date: June 4–5, 2001.

Open: June 4, 2001, 9 a.m. to 10 a.m.

Agenda: Opening remarks by the Director, Intramural Research Program, on matters concerning the intramural program of the NEI.

Place: National Institutes of Health, 9000 Rockville Pike, Building 10, Room 10B16, Bethesda, MD 20892.

Closed: June 4, 2001, 10 a.m. to 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 9000 Rockville Pike, Building 10, Room 10B16, Bethesda, MD 20892.

Closed: June 5, 2001, 9 a.m. to 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 9000 Rockville Pike, Building 10, Room 10B16, Bethesda, MD 20892.

Contact Person: Robert B. Nussenblatt, MD, Director, Intramural Research Program, National Eye Institute, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892, 301–496–3123.

Information is also available on the Institute's/Center's home page: www.nei.nih.gov, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program No. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12458 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C.,

as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Initial Review Group, Genome Research Review Committee.

Date: June 5, 2001.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 31 Center Drive, Conference Rm. B2B32, NHGRI, MD 20892 (Telephone Conference Call).

Contact Person: Ken D. Nakamura, Ph.D., Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301 402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12468 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552 (c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel NIH–ES–00–078.

Date: June 11, 2001.

Time: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS—East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel NIH–ES–00–079.

Date: June 12, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Radisson Governors Inn, I–40 & Davis Dr., Exit 280, Research Triangle Park, NC 27709.

Contact Person: Zoe E. Huang, MD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel NIH–ES–00–080.

Date: June 13, 2001.

Time: 11:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS, 79 T. W. Alexander Drive, Building 4401, Conference Rooming 3446, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel NIH–ES–00–081.

Date: June 14, 2001.

Time: 11:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS, 79 T. W. Alexander Drive, Building 4401, Conference Rooming 3446, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel NIH–ES–00–082.

Date: June 15, 2001.

Time: 11:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS—East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Workers Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Officer of Federal Advisory Committee Policy.

[FR Doc. 01–12457 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: June 7–8, 2001.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Governor's House Hotel, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: David I. Sommers, Ph.D, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development

Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12460 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Council on Alcohol Abuse and Alcoholism, June 6, 2001, 7 p.m. to June 7, 2001, 4 p.m., Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD, 20814 which was published in the **Federal Register** on May 2, 2001, 66 FR 21993.

The times for the open and closed sessions on June 7, 2001, have changed. The open session has been changed to 9 a.m. to 11:30 a.m. and 12 p.m. to 3:30 p.m. The closed session has been changed to 11:30 a.m. to 12 p.m. The meeting is partially Closed to the public.

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12461 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Initial Review Group, NINR Initial Review Group.

Date: June 21–22, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Teneka Pierce, Grants Technical Assistant, National Institutes of Nursing Research, National Institutes of Health, Natcher Building, Room 3AN32, Bethesda, MD 20892, (301) 594–5972.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12462 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NICHD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NICHD.

Date: June 1, 2001.

Open: 8 a.m. to 12 p.m.

Agenda: For the review of Intramural Research Programs and Scientific presentations.

Place: Building 31, Conf. Rm. 2A48, Bethesda, MD 20892.

Closed: 1 p.m. to Adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Building 31, Conf. Rm. 2A48, Bethesda, MD 20892.

Contact Person: Owen M. Rennert, MD., Scientific Director, National Institute of Child Health and Human Development, 9000 Rockville Pike, Building 31, Room 2A50, Bethesda, MD 20892, (301) 496–2133, rennerto@mail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Information is also available on the Institute's/Center's home page: www.nichd.nih.gov/about/bsd/htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12464 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: May 14, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Hyatt Regency Hotel, 100 Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Jon M. Ranhand, Ph.D., Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institute of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12465 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, "Regulation of Interleukin-5 Receptor Signaling".

Date: June 1, 2001.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700–B Rockledge Drive, Room 2156, Bethesda, MD 20892–7610 (Telephone Conference Call).

Contact Person: Nasrin Nabavi, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2156, 6700B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301 496–2550, nn30t@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12466 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Post Doctoral Training.

Date: June 15, 2001.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Arthur L. Zachary, Ph.D., Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 1AS–13H, Bethesda, MD 20892, (301) 594–2886, zacharya@nigms.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12467 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 01–56, Review of R13 Grants.

Date: May 15, 2001.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, Ph.D., Chief, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 01–50, Review of R01 Grants.

Date: June 11, 2001.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room E1/2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anna Sandberg. Ph.D., Scientific Review Administrator, National Institute of Dental and Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–3089.

Name of Committee: National Institute of Dental and Craniofacial Research Special

Emphasis Panel, 01–53, Review of R13 Grants.

Date: June 12, 2001.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room C, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, Ph.D., Chief, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 01–53, Review of R01s.

Date: June 15, 2001.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anna Sandberg. Ph.D., Scientific Review Administrator, National Institute of Dental and Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–3089.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel.

Date: June 27, 2001.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room C, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, Ph.D., Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 9, 2001.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12470 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 15, 2001.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda MD 20892 (Telephone Conference Call).

Contact Person: Samuel Rawlings, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5160, MSC 7844, Bethesda, MD 20892, (301) 435–1243.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 9, 2001.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12471 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 21, 2001.

Time: 1:00 p.m. to 2:15 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gloria B. Levin, Ph.D., Scientific Review Administration, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, (301) 435–1017, leving@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 9, 2001.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12472 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Governors of the Warren Grant Magnuson Clinical Center, June 1, 2001, 9 a.m. to June 1, 2001, 1:30 PM, National Institutes of Health, Clinical Center Medical Board Room, 2C116, 9000 Rockville Pike, Bethesda, MD, 20892 which was published in the **Federal Register** on April 19, 2001, 66 FR 20157.

This meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(6), Title 5 U.S.C., as amended from 12:30 p.m. to 1 p.m. The meeting is partially Closed to the public.

Dated: May 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–12459 Filed 5–16–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following

meetings of SAMHSA Special Emphasis Panels I in June, July, and August 2001.

A summary of the meetings and a roster of the members may be obtained from: Ms. Coral Sweeney, Review Specialist, SAMHSA, Office of Policy and Program Coordination, Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: 301–443–2998.

Substantive program information may be obtained from the individual named as Contact for the meetings listed below.

The meetings will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, these meetings are concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b© (4) and (6) U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: June 4–9, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon June 4–Adjournment.
Panel: Community Initiated Prevention Intervention, SP 01–001.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: June 4–8, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon June 4, 2001–Adjournment.
Panel: Practice Research Collaboration, TI 01–001.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: June 11–15, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon June 11, 2001–Adjournment.
Panel: Consumer Network, SM 01–02.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: June 11–15, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon June 11, 2001–Adjournment.
Panel: Targeted Capacity Expansion/HIV, TI 01–007.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: June 18–22, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon June 18, 2001–Adjournment.
Panel: Circles of Care, SM 01–011.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: June 18–22, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon June 18, 2001–Adjournment.
Panel: Community Action Grants, PA 00–003.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: June 18–22, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon June 18, 2001–Adjournment.
Panel: Addictions Treatment for Homeless, TI 01–006.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: June 25–29, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon June 25, 2001–Adjournment.
Panel: Youth Violence Prevention Cooperative Agreements, SM 01–009.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: July 9–13, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon July 9, 2001–Adjournment.
Panel: Minority HIV/AIDS Mental Health Services, SM 01–012.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: July 9–13, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon July 9, 2001–Adjournment.
Panel: Recovery Community Support Program, TI 01–003.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: July 9–13, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon July 9, 2001–Adjournment.
Panel: Strengthening Communities—Youth, TI 01–004.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: July 16–20, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon July 16, 2001–Adjournment.
Panel: Statewide Family Networks, SM 01–004.
Contact: Coral Sweeney, Director, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: July 16, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Entire Meeting.
Panel: Statewide Family Network Coordinating Center, SM 01–005.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: July 16–20, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon July 16, 2001–Adjournment.
Panel: Targeted Capacity Expansion, CMHS, SM 01–007.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane,Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: July 23–26, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon July 23, 2001–Adjournment.
Panel: High Risk Youth, SP 01–003.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: July 23–27, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon July 23, 2001–Adjournment.
Panel: State Data Infrastructure, SM 01–006.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: July 30–August 3, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon July 30, 2001–Adjournment.
Panel: High Risk Youth, SP 01–003.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: August 6–8, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon August 6, 2001—Adjournment.
Panel: Addiction Technology Transfer Centers, TI 01–008.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: August 13–17, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon August 13, 2001—Adjournment.
Panel: Restraint & Seclusion Training, SM 01–014.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: August 20–24, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon August 20, 2001—Adjournment.
Panel: Minority HIV Prevention Initiative, SP–1–006.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: August 27–31, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon August 27, 2001—Adjournment.
Panel: American Indian, American Alaskan Planning, TI 01–009.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane,. *Room 1789, Rockville, Maryland 20857.*

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).
Meeting Date: August 27–31, 2001.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Closed: Noon August 27, 2001—Adjournment.
Panel: State Treatment Needs Assessment Program, TI 01–010.
Contact: Coral Sweeney, Division of Extramural Activities, Policy and Review, Parklawn Building, 5600 Fishers Lane, Room 1789, Rockville, Maryland 20857.

Coral Sweeney,

Review Specialist, Division of Extramural Activities and Review, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–12436 Filed 5–16–01; 8:45 am]

BILLING CODE 41620–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–077–2822–JL–G212]

Notice of Closure to Livestock Grazing Use

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure to livestock grazing use.

SUMMARY: Effective immediately, the North Emery Allotment (#04100), Shoulder 3 Inc. Allotment (#04103), and the Baker Allotment (#04104) with the exception of Panel 1 and Panel 4, are closed to livestock grazing. This closure will remain in effect until May 1, 2003.

This closure is a direct result of two wildfires, which burned these areas during the summer of 2000, and of the subsequent rehabilitation efforts of the BLM. The closure will promote the reestablishment of vegetation on this site and improve the potential for recovery of wildlife and livestock forage.

This notice will also inform the public and permittees that any unauthorized livestock grazing upon public land or other lands under the BLM's control is in violation of 43 CFR 4140.1(b)(1) [Acts prohibited on public lands] and is subject to administrative actions described in 43 CFR Subpart 4150 (Unauthorized Grazing Use).

SUPPLEMENTARY INFORMATION: The area of closure affected by this notice is the Shoulder 3 Inc. Allotment, the North Emery Allotment, and sections of the Baker Allotment within the Upper Snake River District, and is more specifically described wholly or partially as follows:

Boise Meridian, Idaho

T. 15 S., R. 21 E.,
Public Lands Administered by BLM within Sections 22, 26, 27, 34, 35
T. 16 S., R. 21 E.,
Public Lands Administered by BLM within Sections 1, 2, 3, 10, 11, 12, 14, 15, 21, 22, 28.

Detailed maps of the area closed to livestock grazing are available at the BLM Burley Field Office.

FOR FURTHER INFORMATION CONTACT: BLM Burley Field Office, 15 East 200 South, Burley, Idaho 83318. Telephone (208) 677–6641.

Dated: March 1, 2001.

Theresa Hanley,

Burley Field Manager.

[FR Doc. 01–12409 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–5700–BX; Closure Notice No. NV–030–01–002]

Temporary Closure of Public Lands; Washoe County, NV

AGENCY: Bureau of Land Management, Nevada.

SUMMARY: The Carson City Field Office Manager announces the temporary closure of selected public lands under his administration. This action is being taken to provide for public safety during the 2001 Pylon Racing Seminar and 2001 Reno National Championship Air Races.

EFFECTIVE DATES: June 21 through June 24, 2001, and September 9 through September 16, 2001.

FOR FURTHER INFORMATION CONTACT: Richard Conrad, Assistant Manager, Nonrenewable Resources, Carson City Field Office, 5665 Morgan Mill Road, Carson City, Nevada 89701. Telephone (775) 885–6000.

SUPPLEMENTARY INFORMATION: This closure applies to all the public, on foot or in vehicles. The public lands affected by this closure are described as follows:

Mt. Diablo Meridian

T. 21 N., R. 19 E.,
Sec. 8, N½NE¼, SE¼NE¼ and E½SE¼;
Sec. 16, N½ and SW¼.

Aggregating approximately 680 acres.

The above restrictions do not apply to emergency or law enforcement personnel or event officials. The authority for this closure is 43 CFR 8364.1. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $1,000 and/or imprisoned for not more than 12 months.

A map of the closed area is the Carson City Field Office of the Bureau of Land Management.

Dated: May 7, 2001.

Richard Conrad,

Assistant Manager, Nonrenewable Resources, Carson City Field Office.

[FR Doc. 01–12410 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(AZ–070–1610–DH; AZA–31733)

Notice of Intent To Amend the Kingman Resource Management Plan, March 1995, To Determine Whether Land Which Is Not Currently Identified for Disposal Should Be Made Available for Lease and Patent Under the Recreation and Public Purposes Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM) Lake Havasu Field Office proposes to prepare an Environmental Assessment to determine whether the Kingman Resource Management Plan, (RMP), March 1995, should be amended to allow the following-described lands in Mohave County to be classified in accordance with section 7 of the Taylor Grazing Act, 43 U.S.C. 315f, and Executive Order No. 6910, as suitable for lease and disposal under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869 *et seq.*):

Gila and Salt River Meridian, Arizona

T. 19 N., R. 21 W.,
Sec. 28, E½, S½NW¼, SW¼,
Sec. 33, all.
Containing 1200 acres, more or less.

SUPPLEMENTARY INFORMATION: The Arizona Game & Fish Department (AG&FD) has filed an R&PP application requesting the described land to be made available to meet recreational and educational needs of the community. The current RMP does not identify the land as potentially suitable for disposal. The amendment would make the land available for disposal through R&PP leasing and conveyance. The (AG&FD) proposes to use the above-described sections of land for development of a public shooting range facility and related recreational facilities complex for the greater Bullhead City Area.

SEGREGATION: Upon publication of this notice in the **Federal Register**, the above-described land in Section 28 will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease and conveyance under the R&PP Act, leasing under the mineral leasing laws, and mineral material disposal laws. Upon publication of this notice, the land in Section 33 will be segregated from all forms of appropriation under the public land laws, except for lease and conveyance under the R&PP Act.

DATES: Interested parties may submit valid comments on the Intent to Amend the Plan and associated environmental assessment. Written comments related to the identification of issues will be accepted on or before July 2, 2001.

Comments, including names and street addresses of respondents, will be available for public review at the address below during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your address from public review or from disclosure under the Freedom of Information Act, 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.

ADDRESSES: Comments on this Notice should be sent to Donald Ellsworth, Field Manager, Bureau of Land Management, Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406.

FOR FURTHER INFORMATION CONTACT: Field Manager, Donald Ellsworth, Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406 or telephone (520) 505–1264.

Dated: April 13, 2001.

Donald Ellsworth,

Field Manager.

[FR Doc. 01–12404 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–130–1020–PH; GP1–0184]

Notice of Meeting; Resource Advisory Council; Eastern Washington

AGENCY: Bureau of Land Management, Spokane District, Wenatchee Resource Area.

NOTICE: Notice of field-tour of the Eastern Washington Resource Advisory Council.

ACTION: Field-tour of the Eastern Washington Resource Advisory Council; May 24, 2001, on lands located in the areas of Wenatchee and Ephrata in Central Washington.

SUMMARY: The Eastern Washington Resource Advisory Council (RAC) will meet for a tour on May 24, 2001. The tour will commence at 10:30 a.m., at the Safeway parking lot in Ephrata, Washington. The RAC will visit lands along Sagebrush Flats, Jameson Lake Area, and Moses Coulee Sage Steppe. The purpose of this tour is to view sage grouse habitat representations in Central Washington. The field-trip will adjourn upon conclusion of business, but no later than 4 p.m. Public comments will be heard from 1 p.m. until 1:30 p.m. during the scheduled lunch break. If necessary to accommodate all wishing to make public comments, a time limit may be placed on each speaker. Topics to be discussed include management of the of the representative habitats. Transportation will be provided for RAC members only. Upon conclusion of the tour, return and retrieval of vehicles will commence at the Safeway parking lot in Ephrata, Washington.

FOR FURTHER INFORMATION, CONTACT: Bureau of Land Management, Wenatchee Resource AreaOffice, 915 N. Walla Walla, Wenatchee, Washington, 98801; or call 509–665–2100.

Dated May 8, 2001.

Kevin R. Devitt,

Acting District Manager.

[FR Doc. 01–12406 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–010–1430–01; N–63163]

Partial Termination of Segregative Effect, Maggie Creek Exchange N–63163

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action partially terminates a segregative effect on the Maggie Creek Exchange N–63163 held by Maggie Creek Ranch LP. The lands (as described below) will be opened to the operation of the public land laws, including location and entry under the mining laws.

EFFECTIVE DATE: June 18, 2001.

FOR FURTHER INFORMATION CONTACT: Susan Elliott, Elko Field Office, 3900 E. Idaho St., Elko, Nevada 89801, 775–753–0200.

SUPPLEMENTARY INFORMATION: The segregative effect for the affected lands was made on February 3, 1999, pursuant to the Federal Land Exchange Facilitation Act of August 20, 1988, which implements the exchange provisions of the Federal Land Policy and Management Act of 1976. The

Maggie Creek Land Exchange N–63163, has been modified since the original request for segregation and the herein described parcels were removed from the exchange. The segregative effect is hereby terminated for the following described land located in Elko County:

Mount Diablo Meridian, Nevada

T. 34 N., R. 51 E.,
Sec.12, Lots 1–4, W½E½, W½.
T. 34 N., R. 52 E.,
Sec. 2, Lots 1–4, S½N½, S½;
Sec. 4, Lots 1–4, S½N½, S½;
Sec 6, Lots 1–5, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec 8, All;
Sec 10, All.
T. 35 N., R. 52 E.,
Sec. 2, Lots 3, 4, SW¼NW¼;
Sec. 4, SW¼, SW¼SE¼;
Sec. 8, Lots 1–6, E½E½, SE¼NW¼, W½SW¼;
Sec. 10, S½NW¼, S½;
Sec. 12, E½, S½NW¼, NW¼SW¼, S½SW¼;
Sec. 14, All;
Sec. 16, All;
Sec. 18, E½, E½NW¼;
Sec. 20, All;
Sec. 22, All;
Sec. 24, NE¼, N½NW¼, SW¼NW¼, S½;
Sec. 26, N½, N½SW¼, SW¼SW¼, SE¼;
Sec. 28, SE¼NE¼, W½NW¼, S½;
Sec. 30, E½, SE¼SW¼;
Sec. 32, S½N½, S½;
Sec. 34, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 36, All.
T. 35 N., R. 53 E.,
Sec. 4, Lots 1–4, S½N½, S½S½;
Sec. 6, Lots 1–3, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8, All;
Sec. 16, All;
Sec. 18, Lots 1, 3, 4, E½, E½W½.
T. 36 N., R. 53 E.,
Sec. 32 All.

1. At 9 a.m. on June 18, 2001, the land described above will be opened to the operation of the public land laws generally, subject to valid existing rights, the provision of existing withdrawals, other segregations of record, and the requirements of applicable law.

2. At 9 a.m. on June 18, 2001, the land described above will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Helen Hankins,

Elko Field Office Manager.

[FR Doc. 01–12408 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–020–1430–EU; N–27917, N–58996]

Opening of Public Lands; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction of the legal Description of the notice of termination of Desert Land Entry Classification and Segregation; Nevada.

SUMMARY: This action corrects the legal description for a notice to terminate the desert-land classification N–58996, dated April 8, 1982, also to terminate the segregation of Desert Land Entry Application N–27917, published in the **Federal Register** on pages 18498–18499, Volume 66, Number 68, Document ID: fr09ap01–77, on April 9, 2001.

EFFECTIVE DATE: May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Martha P. Smith, Bureau of Land Management, Winnemucca Field Office, 5100 East Winnemucca Boulevard, Winnemucca NV 89445 at (775) 623–1500.

SUPPLEMENTARY INFORMATION: The legal land description in the Notice of Termination of Desert Land Entry Classification and Segregation; Nevada, published on April 9, 2001, is hereby corrected as follows: The legal description was cited as: T. 40 N., R. 39 E., Sec. 36: NE¼SE¼, N½SE¼SE¼, but it should have read: T. 40 N., R. 38 E., Sec. 36: NE¼SE¼, N½SE¼SE¼. Mount Diablo Meridian, Nevada.

Dated: May 1, 2001.

Terry A. Reed,

Field Manager.

[FR Doc. 01–12405 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–1310–DB]

Draft Resource Management Plan Amendment (RMPA) and Environmental Impact Statement (EIS) for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of extended public comment period.

SUMMARY: The BLM announces additional time for public comment on the Draft Resource Management Plan Amendment (RMPA) and Environmental Impact Statement (EIS) for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties. Pursuant to 102(2)(c) of the National Environmental Quality (CEQ) regulations (40 CFR 1500–1508), and the Federal Land Policy and Management Act (FLPMA) of 1976, the BLM Las Cruces Field Office has prepared a Draft RMPA/EIS. The RMPA/EIS addresses Federal fluid minerals (Oils, gas, and geothermal) leasing and subsequent activities (e.g., exploration, development, or production) in Sierra and Otero Counties, New Mexico. The new deadline for public comment ends June 22, 2001.

DATES: Written comments on the Draft RMPA/EIS must be postmarked on or before June 22, 2001.

ADDRESSES: Written comments should be sent to: Tom Phillips, RMPA/EIS Team Leader, BLM, Las Cruces Field Office, 1800 Marquess, Las Cruces, NM 88005.

FOR FURTHER INFORMATION CONTACT: Tom Phillips, RMPA/EIS Team Leader, (505) 525–4377.

SUPPLEMENTARY INFORMATION: Written comments may be submitted to the BLM, Las Cruces Field Office, 1800 Marquess, Las Cruces, NM 88005 on or before June 22, 2001. Copies of the Draft RMPA/EIS have been distributed to a mailing list of identified interested parties. Single copies of the Draft RMPA/EIS are available from the BLM Las Cruces Field Office, 1800 Marquess, Las Cruces Field Office, New Mexico. Public reading copies are available for review at public and university libraries in Las Cruces, Alamogordo, Truth or Consequences, Roswell, and Santa Fe, New Mexico and El Paso, Texas. The RMPA amends the 1986 Resource Management Plan (RMP) for the White Sands Resource Area. The objective of

the RMPA is to determine (1) which lands overlying Federal fluid minerals are suitable and available for leasing and subsequent development and (2) how those leased lands will be managed. The EIS identifies the potential impacts that alternative plans for fluid minerals leasing and subsequent activities could have on the environment and identifies appropriate measures to mitigate those impacts.

Dated: May 1, 2001.

Tim L. Sanders,

Acting Field Manager, Las Cruces.

[FR Doc. 01–12411 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–VC–M

DEPARTMENT OF THE INTERIOR

National Park Service

Draft General Management Plan Amendment, Draft Environmental Impact Statement, Green Spring unit of Colonial National Historical Park, Virginia

AGENCY: National Park Service, Department of Interior.

ACTION: Availability of draft general management plan and draft environmental impact statement for Green Spring unit of Colonial National Historical Park.

SUMMARY: Pursuant to section 102 (2)(C) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of a Draft General Management Plan Amendment and Draft Environmental Impact Statement (DGMPA/DEIS) for the Green Spring Unit of Colonial National Historical Park, Virginia.

DATES: The DGMPA/DEIS will remain on Public Review through July 11, 2001. Public Meetings are scheduled on May 30, 2001 from 7:00 to 9:00 p.m. and on May 31, 2001 from 10:00 to Noon @: Colonial National Historical Park, Jamestown Visitor Center on Jamestown Island, 1368 Colonial Parkway, Jamestown, VA 23081.

Comments: If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Superintendent, Colonial National Historical Park, Post Office Box 210, Yorktown, Virginia 23690. Comments may be submitted electronically via the Internet to greenspring@nps.gov. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: Green Spring Comments" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (757) 898–3400. Finally, you may hand-deliver comments to Colonial National Historical Park Headquarters, Route 238 & Colonial Parkway, Yorktown, VA 23690. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

ADDRESSES: Copies of the DGMPA/DEIS are available by request from the Superintendent, Colonial National Historical Park, Post Office Box 210, Yorktown, Virginia 23690 or by calling 757–898–2401 or via e-mail at becky_eggleston@nps.gov.

Public Reading copies of the DGMPA/DEIS will be available for review at the following locations:

Colonial National Historical Park Headquarters(address and telephone number listed above in comments section);

Office of Public Affairs, National Park Service,Department of Interior, 18th and C Street, NW., Washington, DC 20240,215–208–6843;

Williamsburg, Virginia Area Public Libraries(Contact Colonial National Historical Park at the address or telephone above for all locations).

SUPPLEMENTARY INFORMATION: The DGMPA/DEIS analyzes 3 alternatives for managing the Green Spring unit of Colonial National Historical Park. *Alternative A*, the No Action Alternative, continues the existing management direction at the site with no general visitor access, no visitor services or interpretation and minimal maintenance of resources. *Alternative B* relies on currently identified core archeological features and would focus additional research, site improvements, visitor access and interpretation on a core archeological area on one side of the park site that is currently bisected by Centerville Road. *Alternative C*, the preferred alternative, would be predicated on a cooperative effort with local officials to remove Centerville Road, which bisects the site and detracts from the safety and quality of the park environment, and is inconsistent with the historic setting.

The DGMPA/DEIS in particular evaluates the environmental consequences of the proposed action and the other alternatives on cultural resources, natural resources, visitor experience, socioeconomic environment, and transportation and site access.

FOR FURTHER INFORMATION CONTACT: Superintendent, Colonial National Historical Park, at the above address and telephone number.

Dated: May 2, 2001.

James Pepper,

Assistant Regional Director for Strategic Planning, Northeast Region, National Park Service.

[FR Doc. 01–12434 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Gettysburg National Military Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the thirty-fifth meeting of the Gettysburg National Military Park Advisory Commission.

DATES: The public meeting will be held on June 21, 2001, from 7 p.m. to 9 p.m.

Location: The meeting will be held at the Cyclorama Auditorium, 125 Taneytown Road, Gettysburg, Pennsylvania 17325.

Agenda: Sub-Committee Reports, Federal Consistency Projects Within the Gettysburg Battlefield Historic District, Operational Updates on Park Activities, and the Citizens Open Forum.

FOR FURTHER INFORMATION CONTACT: John A. Latschar, Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to the Advisory Commission, 97 Taneytown Road, Gettysburg, Pennsylvania 17325. Minutes of the meeting will be available

for inspection four weeks after the meeting at the permanent headquarters of the Gettysburg National Military Park located at 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

Dated: May 7, 2001.

John A. Latschar,

Superintendent, Gettysburg NMP/Eisenhower NHS.

[FR Doc. 01–12433 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 5, 2001. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service,1849 C St. NW., NC400, Washington, DC 20240. Written comments should be submitted by June 1, 2001.

Beth L. Savage,

Acting Keeper of the National Register Of Historic Places.

Arkansas

Sebastian County

West Garrison Historic District (Boundary Increase), Roughly bounded by 13th St., North B, 1st St., and Parker Ave., Fort Smith, 01000614

Hawaii

Maui County

Gomes, Frank and Theresa, House, 32 Pakani Place, Makawao, 01000616

Hana Belt Road, Hana Hwy (HI 360), Pi'ilani Hwy (HI 31), Makawao, 01000615

Indiana

Bartholomew County

Aikens, David, House, 2325 Jonesville Rd., Columbus, 01000621

Carroll County

Wilson Bridge, 0.6 mi. W of Cty Rd. 450W on Cty Rd. 300N over Deer Creek, Delphi, 01000623

Hancock County

Reeves, Jane Ross, Octagon House, 400 S. Railroad St., Shirley, 01000620

Knox County

Shadowwood, 6451 E. Wheatland Rd., Vincennes, 01000618

Lake County

Clark, Wellington A., House, 227 S. Court St., Crown Point, 01000619

Tippecanoe County

Park Mary Historic District, Roughly bounded by Union, Hartford, N. 6th, and N. 14th Sts., Lafayette, 01000617

St. Mary Historic District,

Roughly bounded by Main, South, 10th and 14th Sts., Lafayette, 01000622

Louisiana

Livingston Parish

Castleberry Boarding House, 18290 Cooper St., Port Vincent, 01000624

Massachusetts

Hampshire County

Parsons, Shepherd and Damon, Houses Historic District, 546,58 and 66 Bridge St., Northampton, 01000627

Plymouth County

Adams, Frederic C., Public Library, 33 Summer St., Kingston, 01000625

Worcester County

Cambridge Grant Historic District, 205–287 Russell Hill Rd., 15 Wilker Rd., Ashburnham, 01000626

Missouri

Cole County

Gensky, H.E., Grocery Store Building, 423 Cherry St., Jefferson City, 01000628

New Hampshire

Carroll County

Eastman, William K., House, 100 Main St., Conway, 01000629

Grafton County

Piermont Bridge, NH 25 over Connecticut R.at Vermont State line, Piermont, 01000630

South Carolina

Marion County

Marion High School, 719 N. Main St., Marion, 01000631

South Dakota

Bon Homme County

Wagner, Joseph V., House, (Federal Relief Construction in South Dakota MPS) 112 Lidice St., Tabor, 01000633

Brookings County

Brookings Central Residential Historic District (Boundary Increase), (Schools in South Dakota MPS), 601 4th St., and 521 4th St., Brookings, 01000639

Codington County

Tarbell, Dr., House, 304 Second Ave. SE, Watertown, 01000634

Hughes County

Hipple, John E. and Ruth, House, 219 N. Highland, Pierre, 01000641

Hutchinson County

Schnaidt, Edward, House, 215 South Pearl, Menno, 01000632

Kingsbury County

Royhl, Adam and Minnie, House, 203 S. Third St., Arlington, 01000638

McCook County

Stark Round Barn, (South Dakota's Round and Polygonal Barns and Pavilions MPS), 0.3 mi W of Chicago and Northwestern RR, Unityville, 01000637

Turner County

Higinbotham, William, House, 511 Main St., Centerville, 01000635

Walworth County

Java Depot, Old Railroad Grade, Java, 01000640

Yankton County

Aggergaard Manor, Thompson St., Irene, 01000636

A request for REMOVAL has been made for the following resources:

Minnesota

Carver County

Kusske and Hahn Saloon (Carver County MRA), Cty. Hwy 23, Mayer vicinity 80001977

Paine County

Pine City Naval Military Armory (Pine County MRA), 1st Ave., Pine City 8000211

[FR Doc. 01–12435 Filed 5–16–01; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–706 (Review)]

Canned Pineapple Fruit From Thailand

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission determines,[2] pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty order on canned pineapple fruit from Thailand would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on June 5, 2000 (65 FR 35666) and determined on September 1, 2000

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioner Jennifer A. Hillman is not participating in this five-year review.

that it would conduct a full review (65 FR 55047, September 12, 2000). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on November 1, 2000 (65 FR 67401). The hearing was held in Washington, DC, on March 13, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on May 8, 2001. The views of the Commission are contained in USITC Publication 3417 (May 2001, entitled Canned Pineapple Fruit from Thailand: Investigation No. 731–TA–706 (Review).

By order of the Commission.
Issued: May 9, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–12479 Filed 5–16–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–456]

In the Matter of Certain Gel-Filled Wrist Rests and Products Containing Same; Notice of Investigation

AGENCY: U.S. 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 April 9, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of 3M Innovative Properties Company and Minnesota Mining and Manufacturing Company, both of St. Paul, Minnesota. Supplements to the complaint were filed on April 27 and May 1, 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 gel-filled wrist rests and products containing same by reason of infringement of claims 1, 3, 6, 7, and 8 of U.S. Letters Patent 5,713,544. The complaint further alleges that an industry in the United States exists 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 permanent cease and desist orders.

ADDRESSES: The complaint and supplements, except for any confidential information contained therein, are 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: Jeffrey R. Whieldon, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2580.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 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 May 8, 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 gel-filled wrist rests and products containing same by reason of infringement of claims 1, 3, 6, 7, or 8 of U.S. Letters Patent 5,713,544, and whether an industry in the United States exists 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—

3M Innovative Properties Company, 3M Center, 2501 Hudson Road, St. Paul, Minnesota 55144.

Minnesota Mining & Manufacturing Company, 3M Center, 2501 Hudson Road, St. Paul, Minnesota 55144.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Velo Enterprise Co., Ltd., 1012 Chung Shan Road, Sec. 1, Taichia ChenTaichung Hsien 43742, Taiwan

Aidma Enterprise Co. Ltd. 19 Floor 3, 79 Hsin Tai 5th Road, Section 1, Hsi Chih City, Taipai County, Taiwan

Good Raise Chemical Industry Co., Ltd., 1st Floor, 10 Alley 12 Lane 118, Sung Chu Road, Pei Tun District, Taichung City, Taiwan

ACCO Brands, Inc., 300 Tower Parkway, Lincolnshire, Illinois 60069,

Curtis Computer Products Inc., 441 Eastbay Boulevard, Provo, Utah 84606

Alsop, Inc., 4201 Meridian Street, Bellingham, Washington 98226

American Covers Inc., 102 W. 12200, Draper, Utah 84020

Gemini Industries, Inc., 215 Entin Road, Clifton, New Jersey 07014

(c) Jeffrey R. Whieldon, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Sidney Harris 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 section 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 the 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 to authorize the administrative law judge and the Commission, without further notice to that 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 that respondent.

By order of the Commission.

Issued: May 9, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–12478 Filed 5–16–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–925 (Preliminary)]

Greenhouse Tomatoes From Canada

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Canada of greenhouse tomatoes, provided for in subheadings 0702.00.20, 0702.00.40, and 0702.00.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Commencement of Final Phase Investigation

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. TheSecretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Background

On March 28, 2001, a petition was filed with the Commission and Commerce by Carolina Hydroponic Growers Inc., Leland, NC; Eurofresh, Willcox, AZ; HydroAge, Cocoa, FL; Sunblest Management, Fort Lupton, CO; Sunblest Farms, Peyton, CO; and Village Farms, LP, Eatontown, NJ, alleging that an industry in the United States is materially injured, or threatened with material injury, by reason of LTFV imports of greenhouse tomatoes from Canada. Accordingly, effective March 28, 2001, the Commission instituted antidumping duty investigation No. 731–TA–925 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 4, 2001 (66 FR 17926). The conference was held in Washington, DC, on April 18, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 14, 2001. The views of the Commission are contained in USITC Publication 3234 (May 2001), entitled Greenhouse Tomatoes from Canada: Investigation No. 925 (Preliminary).

By order of the Commission.

Issued: May 14, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–12481 Filed 5–16–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–457]

In the Matter of Certain Polyethylene Terephthalate Yarn and Products Containing Same; Notice of Investigation

AGENCY: U.S. 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 April 11, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Honeywell International Inc. of Morristown, NJ. A supplement to the complaint was filed on May 3, 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 polyethylene terephthalate yarn and products containing same by reason of infringement of claims 1, 2, 4, 5, 7, 10, 13, 14, 16, and 17 of U.S. Letters Patent 5,630, 976. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests 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 and supplement, except for any confidential information contained therein, are 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: T. Spence Chubb, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2575.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2000).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on May 10, 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 polyethylene terephthalate yarn or products containing same by reason of infringement of claims 1, 2, 4, 5, 7, 10, 13, 14, 16, or 17 of U.S. Letters Patent 5,630, 976 and whether an industry in the United States exists 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 complainant is—Honeywell International Inc. 101 Columbia Road, Morristown, NJ 07962–2245.

(b) The respondent is the following company alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Hyosung Corporation, 450 Kongduk-dong, Mapo-gu, Seoul 121–020, Korea.

(c) T. Spence Chubb, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401, Washington, DC 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 respondent in accordance with section 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 the 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 to authorize the administrative law judge and the Commission, without further notice to that 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 that respondent.

By order of the Commission.

Issued: May 10, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–12480 Filed 5–16–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Resource Conservation and Recovery Act

In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. 9601–9675, and section 7003 of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 ("RCRA"), 42 U.S.C. 6973, notice is hereby given of the execution of a proposed prospective purchaser agreement ("Purchaser Agreement"), associated with a commercial property located in Waynesboro, Virginia and presently owned by Genicom, Inc. ("Site"). The Purchaser Agreement has been executed by the Environmental Protection Agency ("EPA"), the Department of Justice, and the prospective purchaser, Solutions Way Management of Huntington, West Virginia.

Genicom is a debtor in bankruptcy which has liquidated all of its assets other than certain accounts receivable, causes of action and the Site. Since entering bankruptcy in March, 2000, Genicom has continued to comply with a unilateral administrative order ("UAO") issued against it by EPA in 1990 under Section 3008(h) of RCRA, 42 U.S.C. 6928(h), with the financial assistance of a former owner of the Site. In the near future, Genicom will have no remaining assets to continue its compliance efforts. Solutions Way Management is the only entity that has shown any substantial interest in purchasing the Site. If the Site is not sold to Solutions Way Management, Genicom will seek to abandon it under 11 U.S.C. 554.

The property subject to the Purchaser Agreement is located at Genicom Drive in Waynesboror, adjacent to the east side of the South River. Volatile organic compounds, such as trichloroethene, 1,2 dicholorethene and 1,1,1 trichloroethane were released into the environment at the Site during a period of approximately 30 years, ending in the 1980s. As a result, soil and groundwater at the Site have been contaminated. Aeration is being used at the Site to reduce or eliminate groundwater contamination. One solid waste management unit ("SWMU") at the Site, where two waste lagoons were formerly located, has been capped and is regulated under a closure permit that was issued in 1999 by the Commonwealth of Virginia's Department of Environmental Quality. It is expected that a permanent remedy for the Site will be proposed within a period of a few months.

Under the terms of the Purchaser Agreement, the purchaser will inspect and maintain the cap for the SWMU referred to above, maintain records at the Site, be responsible for Site security, and submit detailed work, sampling and analytical plans to EPA in any instance were it proposes to develop the Site. In return, the purchaser will receive a covenant not to sue under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, and Sections 3008(h) and 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6928(h) and 6973. Since EPA has incurred no CERCLA response costs at the facility to date, the purchaser will not be making a cash payment in the United States.

DATES: Comments must be submitted on or before May 30, 2001. Comments should be submitted to Region III, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103, ATTN: Kathleen Root, Esq. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

AVAILABILITY: The proposed Purchaser Agreement and additional background information relating to the proposed Purchaser Agreement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed Purchaser Agreement may be obtained from Suzanne Canning, U.S. Environmental Protection Agency,

Regional Docket Clerk (3RC00), 1650 Arch Street, Philadelphia, PA 19103. Comments should reference the "Genicom RCRA Site Prospective Purchaser Agreement" and "EPA Docket No. RCRA–03–2001–0272 and should be forwarded to Suzanne Canning at the above address.

FOR FURTHER INFORMATION CONTACT: Kathleen Root (3RC43), Sr. Assistant Regional Counsel, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103, Phone: (215) 814–2684.

Robert Brook,

Department of Justice, Assistant Section Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 01–12392 Filed 5–16–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; Extension of a currently approved collection; Application for Individual Manufacturing Quota for a Basic Class of Controlled Substance (DEA Form 189).

The Department of Justice, Drug Enforcement Administration (DEA), has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 13, 2001, Volume 66, Number 49, pages 14595–14596 allowing for a 60-day public comment period. No comments were received during the 60-day comment period.

The purpose of this notice is to allow an additional 30 days for public comment until June 18, 2001. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, National Place Building, 1331 Pennsylvania Avenue, NW., Suite 1220, Washington, DC 20530.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

1. *Type of information collection:* Extension of a currently approved collection.

2. *The title of the form/collection:* Application for Individual Manufacturing Quota for a Basic Class of Controlled Substance.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form Number:* DEA Form 189. Applicable component of the Department sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit. *Other:* None.

Abstract: Title 21, CFR, section 1303.22 requires that any person who is registered to manufacture any basic class of controlled substance listed in Schedule I or II and who desires to manufacture a quantity of such class must apply on DEA Form 189 for a manufacturing quota for such quantity of such class.

5. *An estimate of the total number of respondents, responses and the amount of time estimated for an average respondent to respond/reply annually:* 30 respondents, 263 responses, .5 hour per response. A respondent may submit multiple responses. A respondent will take an estimate of 30 minutes to complete each form.

6. *An estimate of the total public burden (in hours) associated with the collection:* 131.5 annual burden hours.

Public comments on this proposed information collection are strongly encouraged.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, National Place Building, 1331 Pennsylvania Avenue, NW., Suite 1220, Washington, DC 20530.

Dated: May 13, 2001.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–12454 Filed 5–16–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

114th Full Meeting of the Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 114th open meeting of the full Advisory Council on Employee Welfare and Pension Benefit Plans will be held Tuesday, June 12, 2001, in Conference Room N–5437 A–C, U.S. Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210.

The purpose of the meeting, which will begin at 1 p.m. and end at approximately 3:30 p.m., is for members to be updated on activities of the Pension and Welfare Benefits Administration and for chairs of this year's working groups to provide progress reports on their individual study topics.

Members of the public are encouraged to file a written statement pertaining to any topics the Council may be studying during 2001 by submitting 20 copies on before June 4, 2001 to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue,

NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 219–8921. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by June 4 at the address indicated.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 4, 2001.

Signed at Washington, DC this 11th day of May, 2001.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 01–12473 Filed 5–16–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension Welfare Benefits Administration

Working Group on Challenges to the Employment-Based Healthcare System, Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Tuesday, June 12, 2001, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study challenges to the employment-based healthcare system.

The session will take place in Room N–5437 A–C, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon, is for working group members to examine weakenesses, strengths and alternatives to employer-based health benefits from both employer and employee perspectives.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before June 4, 2001, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey, by June 4, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 4.

Dated: Signed at Washington, DC, this 11th day of May 2001.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 01–12474 Filed 5–16–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on Planning for Retirement, Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Monday, June 11, 2001, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study planning for retirement.

The session will take place in Room N–5437 A–C, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 1 p.m. to approximately 4 p.m., is for working group members to hear testimony on ways in which individuals can be encouraged to better plan for retirement.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before June 4, 2001, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by June 4, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 4.

Dated: Signed at Washington, DC this 11th day of May 2001.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 01–12475 Filed 5–16–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on Increasing Pension Coverage, Participation and Savings, Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Working Group assigned by the Advisory Council on Employee Welfare and Pension Benefit Plans to study the issue of increasing pension coverage, participation and savings will hold an open public meeting on Monday, June 11, 2001, in Room N–5437 A–C, U.S. Department of Labor Building, Second and Constitution Avenue NW., Washington, DC 20210.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon, is for Working Group members to hear testimony from invited witnesses and engage in discussion concerning the factors which either encourage or inhibit the growth of pension plan coverage and, ultimately, retirement security.

Members of the public are encouraged to file a written statement pertaining to the topic by sending 20 copies on or

before June 4, 2001, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by June 4, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 4.

Signed at Washington, DC this 11th day of May 2001.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 01–12476 Filed 5–16–01; 8:45 am]

BILLING CODE 4510–29–M

MERIT SYSTEMS PROTECTION BOARD

Sunshine Act Notice

TIME AND DATE: 11 a.m., Thursday, May 31, 2001.

PLACE: Board Conference Room, Sixth Floor, 1615 M Street, NW., Washington, DC 20419.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Board adjudication of the Office of Personnel Management's Request for Reconsideration in Azdell and Fishman v. Office of Personnel Management, DC–300A–97–0368–R–1 and DC–300A–97–0369–R–1.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Matthew Shannon, Counsel to the Clerk of the Board, (202) 653–7200.

Dated: May 15, 2001.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 01–12614 Filed 5–15–01; 3:18 pm]

BILLING CODE 7400–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on the Records of Congress; Meeting

AGENCY: National Archives and Records Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Archives and Records Administration (NARA) announces a meeting of the Advisory Committee on the Records of Congress. The committee advises NARA on the full range of programs, policies, and plans for the Center for Legislative Archives in the Office of Records Services.

DATES: June 11, 2001, from 10:00 a.m. to 11:30 a.m.

ADDRESSES: Bill Emerson Hall, U.S. House of Representatives Page School, Library of Congress, Jefferson Building, Room LJ–A15.

FOR FURTHER INFORMATION CONTACT: Michael L. Gillette, Director, Center for Legislative Archives, 202–501–5350.

SUPPLEMENTARY INFORMATION:

Agenda

Third Report to Congress: Follow-up
Historical Services Legislative Resource Center—Update
NARA Report on Electronic Records Project—Update
Center for Legislative Archives—Update
Other current issues and new business

The meeting is open to the public.

Dated: May 10, 2001.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. 01–12427 Filed 5–16–01; 8:45 am]

BILLING CODE 7515–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meeting, Annual Board of Directors Meeting

TIME & DATE: 2 PM, Thursday, May 31, 2001.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW., Suite 800, Washington, DC 20005.

STATUS: Open.

CONTACT FOR MORE INFORMATION : Jeffrey T. Bryson, General Counsel/Secretary 202–220–2372.

Agenda

I. Call to Order
II. Approval of Minutes: February 26, 2001, Regular Meeting
III. Election of Chairman
IV. Election of Vice Chairman
V. Committee Appointments
VI. Election of Officers
VII. Board Appointments
VII. Treasurer's Report
IX. Executive Director's Quarterly Management Report
X. Strategic Planning Discussion
XI. Adjournment

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 01–12520 Filed 5–15–01; 10:35 am]

BILLING CODE 2570–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–333]

Entergy Nuclear Fitzpatrick, LLC, and Entergy Nuclear Operations, Inc.; James A. Fitzpatrick Nuclear Power Plant 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 Section III.G.2.c of Appendix R to 10 CFR Part 50 to Entergy Nuclear FitzPatrick, LLC, and Entergy Nuclear Operations, Inc. (the licensee), in connection with Facility Operating License No. DPR–59 for operation of the James A. FitzPatrick Nuclear Power Plant located in Oswego County, New York.

Environmental Assessment

Identification of the Proposed Action

The proposed action would provide an exemption from the technical requirements of Section III.G.2.c of Appendix R to 10 CFR Part 50 to the extent that it requires the enclosure of cables of one redundant train of safe shutdown equipment in a 1-hour fire rated barrier, in fire area Control Tunnel 1 (CT–1).

The proposed action is in accordance with the application for exemption dated October 30, 2000, filed by the former licensee, the Power Authority of the State of New York (PASNY), as supplemented by the Entergy Nuclear Operations, Inc. letter dated February 7, 2001. On November 21, 2000, PASNY's interests in the license were transferred to Entergy Nuclear FitzPatrick, LLC, which is authorized to possess and use FitzPatrick and to Entergy Nuclear Operations, Inc., which is authorized to possess, use and operate FitzPatrick. By letter dated January 26, 2001, Entergy Nuclear Operations, Inc. requested that the U.S. Nuclear Regulatory

Commission (NRC) continue to review and act on all requests before the NRC which had been submitted by PASNY.

The Need for the Proposed Action

The proposed action is needed to support continued operation with cable wrap fire barriers in CT–1 that do not have a rating of 1 hour.

No Significant Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there would be no significant environmental impact as a result of the proposed action. While the installed fire barrier in CT–1 has less than a 1-hour fire endurance rating, it will provide some resistance to fire. The area where the fire barrier is located has no ignition sources other than cables, has available manual suppression capability, and is equipped with automatic fire suppression and fire detection. Under these circumstances, there is an adequate level of fire safety that there is reasonable assurance that at least one means of achieving and maintaining safe shutdown conditions will remain available during and after any postulated fire, and, therefore, the underlying purpose of the rule is met.

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 off site, 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 non-radiological environmental 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 James A. FitzPatrick Nuclear Power Plant.

Agencies and Persons Consulted

In accordance with its stated policy, on March 22, 2001, the staff consulted with the New York State State official, Jay Dunkleberger, of the New York State Research and Development Authority, regarding the environmental impact of the proposed action. The State official had no comments.

Finding 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 PASNY's letter dated October 30, 2000, as supplemented by Entergy Nuclear Operations, Inc.'s letter dated February 7, 2001. 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 11th day of May 2001.

The Nuclear Regulatory Commission.

Guy S. Vissing,

Senior Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–12413 Filed 5–16–01; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection:

Railroad Employers with No Compensated Employees;

Under 20 CFR 209.2 of the RRB's regulations, the RRB may require any employer or employee to furnish or submit any information, records, contracts, documents, reports or other materials within their possession or control, that, in the judgement of the RRB, may have any bearing upon (a) the employer status of any individual, person or company (b) the employee or pensions status of any individual, (c) the amount and credibility of service and compensation, and (d) any other matter arising which involves the administration of the Railroad Retirement Act. The RRB proposes to establish a monitoring program designed to periodically contact covered railroad employers who have either reported no compensated employees for the last 2 years, or who, after previously reporting no compensated employees are no longer reporting. The RRB will contact the targeted railroad employers and obtain information as to whether they had compensated employees in the past reporting year, if they expect to have compensated employees in the current reporting year, and provide them the opportunity to request that their status as an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act be reviewed. For program integrity purposes, targeted employers who operate a freight or passenger service will be asked to provide additional information as to whether they conducted any freight or passenger service during the previous reporting year, if they expect to conduct any during the current reporting year, or if they have ceased all operations. If they have conducted freight or passenger service, they will be asked how the service and compensation was accounted for. If they have ceased operations, they will be asked to provide the Interstate Commerce Commission/Surface Transportation Board references to any abandonment proceedings.

The RRB proposes the establishment of Form T–7, Request to Railroad Employers to obtain the necessary information from the targeted railroad employers. Form T–7 will be accompanied by an Employer Program Letter which explains the purpose of the initiative and provides instructions. The completion time for Form T–7 is estimated at 10 minutes. Completion is mandatory.The RRB estimates that approximately 175 T–7's will be completed annually.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–12452 Filed 5–16–01; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Home Security International, Inc. Common Stock, par value $0.001 per share) File No. 1–14502

May 11, 2001.

Home Security International, 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 Common Stock, $0.001 par value ("Security"), from listing and registration on the American Stock Exchange ("Amex").

The Issuer started in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the State of Delaware, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

In making the decision to withdraw the Security from listing on the Exchange, the Issuer considered:

(1) The Issuer's non-compliance with the Amex maintenance standards concerning the price per share of the Issuer's Security ($0.12 as of May 1, 2001);

(2) The Issuer's non-compliance with the Amex maintenance standards concerning the number of registered shareholders of the Issuer's Security (21 as of October 23, 2000);

(3) The volume of trading of the Security is approximately nine percent (9%) of the aggregate trading volume in the Common Stock since 1997;

(4) The resignation of the Issuer's independent auditor;

(5) The percentage of the Issuer's Security owned by affiliates of the Issuer; and

(6) The costs associated with maintaining the Issuer's listing on the Amex in light of the Issuer's current financial position.

The Issuer represent that the Security has been listed in the Pink Sheets since late April 2001. The Issuer also represents that it is investigating whether or not to file a Form 15 with the Commission.

Any interested person may, on or before June 1, 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 issuer 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.[3]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12437 Filed 5–16–01; 8:45 am]

BILLING CODE 8010–01–M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by P.L. 104–13; Submission for OMB Review; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Submission for OMB Review; comment request.

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

Comments should be sent to OMB Office of Information and Regulatory Affairs, Attention: Desk Officer for Tennessee Valley Authority no later than June 18, 2001.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission, new collection of information.

Title of Information Collection: TVA Police Customer Satisfaction Survey.

Frequency of Use: On occasion.

Type of Affected Public: Individuals or households and business or other for-profit.

Small Business or Organizations Affected: Yes.

Estimated Number of Annual Responses: 2,000.

Estimated Total Annual Burden Hours: 167.

Estimated Average Burden Hours Per Response: 5 Minutes.

Need For and Use of Information: This information collection will be randomly distributed to individuals who use TVA facilities and come in contact with TVA Police Officers (i.e., campers, boaters, marina operators, etc.) to provide feedback on the quality of the security and safety provided by TVA Police on TVA-managed public lands. The information collection will be used to evaluate current security and safety policies and to identify new opportunities for improvement.

Jacklyn J. Stephenson,

Senior Manager, Enterprise Operations, Information Services.

[FR Doc. 01–12453 Filed 5–16–01; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the University of Oklahoma Westheimer Airport, Norman, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 17 CFR 200.30–3(a)(1).

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invites public comment on the release of land at the University of Oklahoma Westheimer Airport under the provisions of Section 125 and 751 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21) and Section 352 of Public Law 106–346 (FY–2001 Department of Transportation Appropriation Act).

DATES: Comments must be received on or before June 18, 2001.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. Edward Agnew, Manager, Federal Aviation Administration, Southwest Region, Airports Division, Arkansas/Oklahoma Airports Development Office, ASW–630, Fort Worth, Texas 76193–0630.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David L. Boren, President at the following address: The University of Oklahoma, Office of the President, 660 Parington Oval, Evans Hall, Room 110, Norman, OK 73019.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Hellen, Program Manager, Federal Aviation Administration, Oklahoma City Airports District Office, 5909 Phillip J. Rhoads Avenue, Oklahoma City, Oklahoma 73008.

The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comments on the request to release property at the University of Oklahoma Westheimer Airport, Norman, Oklahoma under the provisions of the AIR–21 and Public Law 106–346.

On April 2, 2001, the FAA received a proposal with supporting information requesting release of property at the University of Oklahoma Westheimer Airport. The proposal meets the requirements of section 751 of AIR–21 and section 352 of Public Law 106–346. FAA may approve the request, in whole or in part, at the conclusion of the comment period.

The following is a brief overview of the request:

The University of Oklahoma requests the release of approximately 200 acres of airport property identified as "Parcels II, III and IV" from the terms and conditions represented in Surplus Property and Grant Agreements. The release of property will permit the University of Oklahoma to derive proceeds from the use, operation and disposal of the land to construct and establish with the National Oceanic and Atmospheric Administration and the National Weather Service a weather facility.

Any person may inspect the University's request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person by contacting the University of Oklahoma.

Issued in Forth Worth, Texas on April 27, 2001.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 01–12487 Filed 5–16–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Associate Administrator for Commercial Space Transportation; Notice of Availability of a Draft Environmental Assessment (EA) for Proposed Issuance of a Launch Operator License (LOL) or Launch Specific Licenses to Sea Launch Limited Partnership (SLLP)

AGENCY: Federal Aviation Administration (FAA), Associate Administrator for Commercial Space Transportation (AST).

ACTION: Notice of availability.

SUMMARY: In accordance with Executive Order 12114, the implementation of which is guided by the National Environmental Policy Act (NEPA), the FAA is initiating a 30-day public review and comment period of a Draft Environmental Assessment (EA) for proposed issuance of a launch operator license (LOL) or launch specific licenses to Sea Launch Limited Partnership (SLLP). If issued, the LOL would authorize SLLP to conduct, within certain launch parameters, up to eight commercial launches per year for five years without having to apply for a separate license for each launch. These launches would all be equatorial and would use azimuths between 82.6° and 97.4°, inclusive, originating from the SLLP Launch Platform (LP) at 0° latitude and 154° West (W) longitude, which is 425 kilometers (266 miles) from Kiritimati (Christmas Island) in the Kiribati Island Group in the Pacific Ocean. This Draft EA also addresses the proposed issuance of a launch-specific license for the launch of a Galaxy IIIC payload as well as other proposed launch specific licenses within the defined azimuth range and other specified launch parameters should the proposed LOL not be issued or be delayed. As a foreign entity in which a U.S. citizen has a controlling interest, in order to conduct commercial launch operations SLLP must obtain a license from FAA. Copies of the draft document are available through AST's Website (*http://ast.faa.gov/*) or by contacting Ms. Michon Washington at the address listed below.

DATES: The official comment period will begin with publication of this Notice of Availability. The comment period will end June 18, 2001.

FOR FURTHER INFORMATION CONTACT: Questions about the license applicant's proposed action and the Draft EA may be addressed to Ms. Michon Washington, Office of the Associate Administrator for Commercial Space Transportation, Space System Development Division, Suite 331/AST–100, 800 Independence Avenue SW., Washington, DC 20591; email *michon.washington@faa.gov* or phone (202) 267–9305. Written comments regarding the Draft EA should be sent to the same mailing address.

Additional Information: Under the license applicant's proposed action, the FAA would issue a license to SLLP to conduct (1) Up to eight launches per year over a five-year period, for a maximum of 40 launches; (2) from a launch site at 0° latitude and 154° W longitude; (3) within a range of launch azimuths from 82.6° to 97.4°, inclusive; (4) using a Zenit-3SL launch vehicle; and (4) transporting specified classes of payloads. The FAA is also evaluating the possibility of issuing a launch-specific license to SLLP for the launch of Galaxy IIIC, as well as other potential launch-specific licenses (not to exceed eight per year) as necessary should the proposed LOL not be issued or be delayed. The proposed launch-specific licenses would authorize SLLP to conduct specific launches (1) From a launch site at 0° latitude and 154° W longitude; (2) for a launch along an azimuth of 90.0°; (3) using a Zenit-3SL launch vehicle; and (4) transporting specified classes of payloads.

The FAA is considering six alternatives to the license applicant's proposed action. Three of these alternatives were briefly considered and dismissed as not fulfilling the purpose and need of the proposed action. They include: (1) Increasing the annual number of launches to a range of up to 12 per year; (2) using a range of azimuths from 70° to 110° (identified as

possible azimuths for GSO launches); (3) launching along a range of azimuths between 82.6° and 97.4° but avoiding specific azimuths within this range that would overfly any nation's National Park or National Reserve. Two alternatives were carried forward and considered in detail in the Draft EA including: (1) Launching along a range of azimuths between 82.6° and 97.4° but avoiding any azimuth that would overfly any of the Oceanic Islands (Galapagos Islands, Cocos Island, and Malpelo Island) and (2) launching along a range of azimuths between 82.6° and 97.4° but avoiding any azimuths that overfly the Galapagos Islands. The No Action Alternative was also considered in detail. Under the No Action alternative, FAA would not issue a LOL to SLLP. SLLP would continue to prepare and submit launch-specific applications for individual licenses to launch up to six satellites per year, including appropriate environmental analyses and documentation to support launch-specific applications when required.

Potential impacts of the license applicant's proposed action were analyzed in the Draft EA. Potential environmental impacts of successful launch vehicle flight include impacts to the geology, oceanography, atmospheric processes, and biological communities within the overflight and stage and fairing deposition areas. Additionally, possible impacts to commercial activities in these areas were analyzed. Potential environmental impacts of three failed mission scenarios were also considered including: (1) Possible failure at the launch platform, (2) possible failure during Stage I and Stage II flight over open ocean, and (3) possible failure during Upper Stage flight over the ocean, Oceanic Islands, or South America. Finally, potential environmental impacts associated with the avoidance of the Oceanic Islands alternative and the avoidance of the Galapagos Islands alternative were also analyzed. The impacts of the No Action Alternative would be the same as those addressed in the FAA's Final Environmental Assessment for the Sea Launch Project (February 11, 1999).

Potential cumulative impacts of each phase of the launch operation associated with eight SLLP launches per year for five years, or a maximum of 40 proposed launches, over the broader range of azimuths of the license applicant's proposed action are also addressed in the Draft EA.

Based on the Draft EA, FAA will determine whether there are potentially significant impacts requiring preparation of an Environmental Impact Statement (EIS) or whether to issue a Final EA and Environmental Finding Document finding no significant impact.

Dated: May 11, 2001.

Herb Bachner,

Manager, Space Systems Development Division.

[FR Doc. 01–12390 Filed 5–16–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–38]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petitioner or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC., on May 14, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Disposition of Petitions

Docket No.: 29725.
Petitioner: Federal Express Corporation.
Section 14 CFR Affected: 14 CFR 121.417(c)(2)(i).
Description of Relief Sought/Disposition: To provide FedEx relief from the requirement that each flight crewmember perform hands-on emergency drills and operate certain emergency equipment every 24 months during recurrent training.
Denial, 04/30/2001, Exemption No. 7521.

Docket No.: FAA–2001–9228.
Petitioner: Bridger Aviation Services, Inc.
Section 14 CFR Affected: 14 CFR 135.143(2)(2).
Description of Relief Sought/Disposition: To permit Bridger to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.
Grant, 04/26/2001, Exemption No. 7519.

Docket No.: FAA–2001–8745.
Petitioner: Caribou Air Service.
Section 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit Caribou to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.
Grant, 04/26/2001, Exemption No. 7518.

Docket No.: FAA–2001–8743.
Petitioner: Beaver Air Taxi, LLC.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit Beaver Air to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.
Grant, 04/26/2001, Exemption No. 7517.

Docket No.: FAA–2001–9043.
Petitioner: Horizon Air Industries, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(a)(14), (a)(29), (a)(33), (a)(40), (a)(44), and (a)(54).
Description of Relief Sought/Disposition: To permit Horizon and all similarly situated air carriers to operate the Bombardier CL–600–2C10 airplane without recording the parameters listed in § 121.344(a)(14), (a)(29), (a)(33), (a)(40), (a)(44), and (a)(54) within the ranges, accuracies, resolutions, and recording intervals specified in appendix M to part 121.
Denial, 04/27/2001, Exemption No. 7520.

Docket No.: 28855.
Petitioner: Offshore Logistics, Inc.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/Disposition: To amend Exemption No. 6714, as amended, which permits Offshore to operate certain helicopters under part 135 without an approved digital flight data recorder installed on each helicopter. By (1) changing the name of the exemption holder from Offshore Logistics, Inc., to Air Logistics, L.L.C., and (2) updating the list of helicopters covered by the exemption.
Grant, 05/04/2001, Exemption No. 6714C.

Docket No.: FAA–2001–8738.
Petitioner: DHL Airways, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(b)(3).
Description of Relief Sought/Disposition: To allow DHL to operate two Airbus 300B4–200 series airplanes (Registration Nos. N367DH and N366DH) without installing in each the airplane the required digital flight data recorder.
Grant, 05/04/2001, Exemption No. 7522.

Docket No.: FAA–2000–8423.
Petitioner: Alaska Flying Network.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J of part 121.
Description of Relief Sought/Disposition: To permit AFN to conduct no more than four local sightseeing flights at an airport in the vicinity of Kenai, AK, as part of a raffle to

raise funds for local charities, at a date and time to be determined by you and recipient(s) of the flight, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.

Grant, 04/27/2001, Exemption No. 7274A.

[FR Doc. 01–12488 Filed 5–16–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34021]

Central Michigan Railway Company and CSX Transportation, Inc.—Joint Relocation Project Exemption—in Saginaw, MI

Central Michigan Railway Company (CMGN) has filed a notice of exemption under 49 CFR 1180.2(d)(5) to relocate its rail operations within the City of Saginaw, MI, from a portion of its line to a portion of line owned by CSX Transportation, Inc. (CSXT). CMGN will operate over the portion of the line owned by CSXT by overhead trackage rights. CMGN states that the transaction will be consummated by September 1, 2001, but not before April 26, 2001, the effective date of the exemption.[1]

CMGN operates over an approximately 1.92-mile rail line entirely in Saginaw, from CMGN milepost 0.07, at or near the Denmark Switch, to CMGN milepost 1.99, at or near Hoyt Diamond, MI (subject line). CMGN currently connects with CSXT at milepost B'B 07, at or near Mershon Switch.

Under the joint relocation project, CMGN and CSXT propose the following trans (1) CMGN will acquire overhead trackage rights over approximately 2.9 miles of rail line owned by CSXT from milepost BBO 7 at or near the Mershon Switch east to milepost CB 1 near the Saginaw Yard (a distance of approximately 1.7 miles), then from milepost CB 1 southeast to milepost CC 2.2, at or near the Hoyt Diamond (a distance of approximately 1.2 miles), at which point CMGN would connect with its main line;[2] (2) CMGN will abandon its operations from CMGN milepost 0.07 at or near the Denmark Switch to CMGN milepost 1.99 at or near the Hoyt Diamond (the subject line); and (3) CMGN will construct a new public team track facility, approximately 570 feet long beginning at CSXT milepost CC 2.1 on CSXT's line and connecting with CMGN at approximately CMGN's milepost 2.04.

The proposed joint relocation project will not disrupt service to shippers.[3] Its purpose is to eliminate approximately 22 grade crossings (8 of which cross major system routes) pursuant to a highway improvement project funded by CMGN, CSXT, the Michigan Department of Transportation, the City of Saginaw and TEA–21 Local Safety Program funds. Thus, it will enhance public safety by reducing the risk of crossing accidents. The notice further states that CSXT's trackage rights provides an alternate route by which CMGN can access its own rail line. There will be no expansion into new territory; nor will there be a change in the existing competitive situation.

The Board will exercise jurisdiction over the abandonment or construction components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into a new territory. *See City of Detroit* v. *Canadian National Ry. Co., et al.*, 9 I.C.C.2d 1208 (1993), *aff'd sub nom., Detroit/Wayne County Port Authority* v. *ICC*, 59 F.3d 1314 (D.C. Cir. 1995). Line relocation projects may embrace trackage rights transactions such as the one involved here. *See D.T.&I.R.—Trackage Rights*, 363 I.CC. 878 (1981). Under these standards, the incidental abandonment, construction, and trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

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. 34021, 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 Rose-Michele Weinryb, Weiner Brodsky Sidman Kider PC, 1300 19th Street, NW., Fifth Floor, Washington, DC 20036–1609.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: May 10, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–12345 Filed 5–16–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34026]

Summit View, Inc.—Control Exemption—Mahoning Valley Railroad Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board exempts from the prior approval requirements of 49 U.S.C. 11323, *et seq.*, the acquisition by Summit View, Inc. (Summit) of control of Class III rail carrier Mahoning Valley Railroad Company (MVRC). Summit is a noncarrier holding company that controls eight Class III rail carriers.[1] MVRC's capital stock is owned by Cuyahoga Valley Railway Company which, in turn, is a wholly owned subsidiary of LTV Steel Company (LTV).[2] On March 28, 2001, Summit submitted to the Board for review and

[1] An unredacted version of the trackage rights agreement between CMGN and CSXT, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed with the notice of exemption under seal along with a motion for a protective order. A protective order was served on May 2, 2001.

[2] CMGN's use of the trackage rights would make its rail operations more efficient. It would further allow CMGN to access its shippers east of the Hoyt Diamond by having a more direct route between the Saginaw Yard and the Hoyt Diamond after it interchanges with CSXT.

[3] By letter dated April 11, 2001, Self-Serve Lumber, the only shipper on the line fully supports the proposed relocation and incidental abandonment by CMGN.

[1] Ohio Central Railroad, Inc., Ohio Southern Railroad, Inc., Youngstown Belt Railroad, Inc., Warren & Trumbull Railroad, Ohio & Pennsylvania Railroad, Youngstown & Austintown Railroad, Pittsburgh & Ohio Central Railroad, and Columbus & Ohio River Railroad Company.

[2] LTV, MVRC's largest shipper, is presently engaged in voluntary reorganization proceedings under Chapter 11 of the U.S. Bankruptcy Code. LTV has sought and secured conditional approval from the Bankruptcy Court to sell MVRC and other non-core assets as promptly as practicable in order to streamline LTV's operations and emerge a stronger and more efficient organization by selling a number of assets that are either unproductive or nonessential.

an informal opinion under 49 CFR 1013 a proposed voting trust agreement [3] to be entered into by Summit and MVRC.[4] Summit requests expedited action on the exemption petition. This request is addressed in the Board's decision.

DATES: The exemption will be effective June 1, 2001. Petitions for stay must be filed by May 22, 2001. Petitions for reconsideration must be filed by June 6, 2001.

[3] A corrected copy of the agreement was submitted on April 3, 2001.

[4] On April 12, 2001, the Board's Secretary, Vernon A. Williams, issued an informal opinion in which he concluded that the voting trust "effectively insulates Summit and its subsidiaries and affiliates from unauthorized control of MVRC."

ADDRESSES: Send an original and 10 copies of any pleadings referring to STB Finance Docket No. 34026 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, send one copy of any pleadings to petitioner's representatives: Kelvin J. Dowd and Andrew B. Kolesar III, 1224 Seventeenth St., NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 565–1600 [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dā-to-Dā Office Solutions, 1925 K Street NW., Suite 210, Washington, DC 20006. Telephone: (202) 756–1649. [Assistance for the hearing impaired is available through TDD services 1–800–877–8339.]

Board decisions and notices are available on our website at WWW.STB.DOT.GOV."

Decided: May 11, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–12346 Filed 5–16–01; 8:45 am]

BILLING CODE 4915–00–P

Federal Register

Thursday,
May 17, 2001

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 121

Flight Crewmember Flight Time Limitations and Rest Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

Flight Crewmember Flight Time Limitations and Rest Requirements

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of enforcement policy.

SUMMARY: This notice of enforcement policy announces to the public the Federal Aviation Administration's (FAA's) intent to rigorously enforce its existing regulations governing flight crewmember rest requirements that are presently codified at 14 CFR 121.471. These regulations have been in existence since 1985, and it is the FAA's intention to ensure that the current rules, as interpreted, are followed by those whose conduct they govern. Accordingly, this notice publishes the FAA's long-standing construction of 14 CFR 121.471 and affords notice to affected certificate holders and flight crewmembers of the FAA's intent to enforce its rules in accordance with these interpretations. This policy statement is being given so those affected will have an opportunity to review their practices and, if necessary, come into full regulatory compliance.

DATES: This notice of enforcement policy is effective on May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Alberta Brown, Air Transportation Division, AFS–200, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8166.

SUPPLEMENTARY INFORMATION:

The Regulation

The Civil Aeronautics Act of 1938 (52 Stat. 1007; as amended by 62 Stat. 1216, 49 U.S.C. 551) and subsequently the Federal Aviation Act of 1958 (now codified at 49 U.S.C. 40101 *et seq.*) addressed the issue of regulating flight crewmember hours of service. The FAA's governing statute empowers and directs the Secretary of Transportation to establish "regulations in the interest of safety for the maximum hours or periods of service of airmen and other employees of air carriers." 49 U.S.C. 44701(a)(4). The statue further provides the FAA with the authority to prescribe "regulations and minimum standards for other practices, methods, and procedures the Administrator finds necessary for safety in air commerce and national security." 49 U.S.C. 44701(a)(5).

The FAA's rules at 14 CFR 121.471(b) and (c) set forth flight time limitations and rest requirements for domestic operations. These provisions state:

Section 121.471—Flight time limitations and rest requirements: All flight crewmembers

(b) Except as provided in paragraph (c) of this section, no certificate holder conducting domestic operations may schedule a flight crewmember and no flight crewmember may accept an assignment for flight time during the 24 consecutive hours preceding the scheduled completion of any flight segment without a scheduled rest period during that 24 hours of at least the following:

(1) 9 consecutive hours of rest for less than 8 hours of scheduled flight time.

(2) 10 consecutive hours of rest for 8 or more but less than 9 hours of scheduled flight time.

(3) 11 consecutive hours of rest for 9 or more hours of scheduled flight time.

(c) A certificate holder may schedule a flight crewmember for less than the rest required in paragraph (b) of this section or may reduce a scheduled rest under the following conditions:

(1) A rest required under paragraph (b)(1) of this section may be scheduled for or reduced to a minimum of 8 hours if the flight crewmember is given a rest period of at least 10 hours that must begin no later than 24 hours after the commencement of the reduced rest period.

(2) A rest required under paragraph (b)(2) of this section may be scheduled for or reduced to a minimum of 8 hours if the flight crewmember is given a rest period of at least 11 hours that must begin no later than 24 hours after the commencement of the reduced rest period.

(3) A rest required under paragraph (b)(3) of this section may be scheduled for or reduced to a minimum of 9 hours if the flight crewmember is given a rest period of at least 12 hours that must begin no later than 24 hours after the commencement of the reduced rest period.

(4) No air carrier may assign, nor may any flight crewmember perform any flight time with the air carrier unless the flight crewmember has had at least the minimum rest required under this paragraph.

In June 1999, FAA issued a notice of enforcement policy related to this rule. In that notice, the FAA clarified that the rules were applicable to all pilots operating in domestic scheduled operations. In December, 1999, FAA conducted a comprehensive review of air carrier scheduling practices and found that with one exception all operators were in compliance with the rule.

Interpretations of Rest Requirements

In part in response to the FAA's earlier focus on air carrier compliance with the flight and rest rules, the chairman of a national pilots union sent the FAA a letter posing a set of circumstances and inquiring about the applicability of 14 CFR 121.471 (b) and (c) to various scenarios. The FAA issued a response that reflects the agency's long-standing construction of these regulatory provisions. That response is attached to this notice. In substance, the FAA reiterated that each flight crewmember must have had a minimum of 8 hours of rest in any 24 hour period that includes flight time. In addition, the interpretation reiterated that if a pilot's actual rest was less than 9 hours in the 24 hour period that included flight time, the next rest period must be lengthened to provide for the appropriate compensatory rest. The substance of the FAA response is contained in the Appendix.

After the interpretation was issued, many operators questioned whether this was consistent with earlier FAA interpretations. FAA met with representatives of the airlines as well as with organizations that represent them. At the meeting, the representatives stated that their approved scheduling systems had not been tracking the actual rest that a pilot had received in a 24-hour period that included flight time. The operators expressed concern that applying the rule as interpreted could reduce safety. They suggested that a pilot should not be diverted from important preflight and taxi-out duties by the need to constantly monitor whether he or she has had sufficient rest to finish the flight. They were particularly concerned about what might happen when there has been a lengthy ground delay and the flightcrew or the aircraft dispatcher determines that the flight cannot be completed within the rest requirements.

FAA met with representatives of the pilots unions. The pilots stated that in the vast majority of cases pilots are receiving the amount of rest required by the rule. However, they suggested that in a small number of operations it was possible that when a pilot completed his or her assigned flight schedule, he or she may have had less than 8 hours of rest in the preceding 24-hour period.

To ensure that the application of the rule would have no consequences that would reduce safety, the FAA considered all these concerns and all the information provided by the operators and the pilot unions. Although there may be some impacts to schedules and some delayed operations, FAA believes that safe operations require that a flight crewmember has a minimum of 8 hours rest in a 24 hour period that includes flight time. In addition, that flight crewmember must receive additional rest in the next rest period to compensate for any potential fatigue.

Compliance and Enforcement Plan

The FAA intends to rigorously enforce these regulations governing flight time restrictions and rest requirements. Accordingly, any noncompliance with the regulation should be corrected without delay.

For any air carriers that are not currently in compliance with these regulations, the FAA intends to take into consideration the certificate holder's good faith efforts to come into compliance in determining what, if any, enforcement action is appropriate if noncompliance is discovered. With regard to violations by individual flight crewmembers, the FAA will consider the circumstances of each case, including such factors as the employing certificate holder's effort to come into compliance and the culpability of the individual.

While the FAA reserves the right to take appropriate action to address regulatory noncompliance, particularly in egregious circumstances, the FAA does not intend to target its inspection resources on this compliance issue at this time. However, this notice serves to advise air carriers, flight crewmembers, and the public that on [insert date (6 months from publication date)] the FAA intends to begin a comprehensive review of certificate holders' flight scheduling practices and expects to deal stringently with any violations discovered.

Issued in Washington, DC, on May 14, 2001.

Margaret Gilligan,

Acting Associate Administrator for Regulation and Enforcement.

Appendix

Facts: A crew is assigned reserve standby duty commencing at 0600. They are then called at 0900 to check in for a flight assignment at 1100.

End of rest	Report at	Release at	Sched. rest	Look-back rest
Day 1 0600	1100	2100	10:00	9:00
Day 2 0700	0700	1700	12:00	10:00

In the above example, assume that the crew was assigned to three segments with a total of less than 8 hours of flying in each duty period and that the scheduled block-in of the last flight of each day is 15 minutes prior to release. This original schedule does not require compensatory rest. I note, preliminarily, that your letter states that I should assume that the flight crew "was assigned to three segments with a total of less than 8 hours of flying in each duty period." I assume that by that statement you mean "less than a total of 8 hours of scheduled flight time for the three flight segments, on both Day 1 and Day 2." Based on that assumption, the regulations that I will apply are those that require a minimum of 9 consecutive hours of scheduled rest (section 121.471(b)(1)) that may be reduced to a minimum of 8 hours with a minimum of 10 hours compensatory rest that must begin no later than 24 hours after the commencement of the reduced rest (section 121.471(c)(1) (the "reduced/compensatory rest" exception)). I have also made other assumptions or clarifications that are described in my responses below.

Situation 1: On Day 1, all goes according to plan on the first two segments. However, after leaving the gate on the third segment, the crew encounters an unanticipated ground delay that results in only an 8 hour, 45 minutes look-back rest period upon termination at destination.

1. Is compensatory rest now required upon landing?

Response: You do not provide specific details on what is the termination time of the last flight segment. (I assume that by "termination at destination" you mean the "termination of the last flight segment.") However, you state, above, that the flight crew would only receive an 8 hours and 45 minutes look-back rest period. I therefore assume that the termination of that last flight segment, based on the other factual details you provide above, was at 2115. Looking back 24 hours from 2115 on Day 1 to 2115 on the day prior to Day 1, one finds only 8 and three quarters consecutive hours of rest in the period 2115 (of the day prior to Day 1) to 0600 hours (on Day 1).

The only situation in which a certificate holder may reduce the minimum 9 hour required rest period is to utilize the "reduced/compensatory rest" exception that allows certificate holders the flexibility to adjust scheduled rests in the event of late arrivals. Thus, a certificate holder may reduce the required scheduled rest so that one finds a minimum look-back rest of 8 consecutive hours on termination of the last flight segment, as well as provide the required compensatory rest. In your scenario, the certificate holder could reduce the required minimum 9 consecutive hours of scheduled rest to 8 and three-quarters hours.[1] However, the certificate holder must also provide the flight crewmember with a compensatory rest period of at least 10 hours that must begin no later than 24 hours after commencement of the reduced rest period. In your scenario, that compensatory rest must begin at 2115 on Day 1, since the reduced rest begins at 2115 on the day before Day 1.

2. In the case of a ground delay prior to take-off, would the crew and certificate holder be correct in using planned flight time and taxi-in time in determining the scheduled arrival time?

Response: The FAA requires the crew and the certificate holder to use the actual expected flight time and taxi-in time, based on the specific conditions that exist on the day, to determine the scheduled arrival time for purposes of determining whether a flight should be commenced. For example, if an airline has published a flight time of three hours, but knows that the actual time the flight will take is four hours because of weather, ground delays, etc., then the FAA requires the carrier to use four hours for purposes of calculating the arrival time. On the other hand, if the air carrier has scheduled a flight for three hours, but on the day in question, it is reasonable to conclude that flight time would only be two and a half hours, the carrier may use two and a half hours to calculate the arrival time.

3. If the ground delay continues to the point that the look-back rest is reduced below 8 hours, can the crew continue? If so, what are the rest requirements upon arrival?

Response: The flight may not take off if the look-back rest period is reduced to less than 8 hours. There must be at least an eight-hour look-back rest period. The eight-hour minimum reduced rest may not be further reduced under any circumstance.

4. If a ground delay, that would result in a late arrival that would not provide at least 8 hours of look-back rest is known by the certificate holder and/or crew prior to gate departure, can the crew depart legally based upon the published scheduled flight time?

Response: No. As stated above, the FAA requires the crew and the certificate holder to use the actual expected flight time and taxi-in time, based on the specific conditions that exist on the day, to determine the scheduled arrival time for purposes of determining whether a flight should be commenced. If the actual expected flight time is longer than the carrier originally calculated in determining the scheduled arrival time, then the actual expected flight time must be used in determining the look-back rest period.

Situation 2. On Day 1, the crew is late inbound on the second segment which results in not being able to leave the gate on the third and last segment on time. As a result, the look-back would now provide 8 hours and 45 minutes rest in the previous 24, based on the scheduled duration of the final segment.

1. Is compensatory rest now required upon arrival?

Response: Yes. Compensatory rest would be required upon arrival at the third destination. See the discussion in my response to question 1 of Situation 1 above.

2. If the crew were further delayed so that they could not depart to provide at least 8 hours of look-back rest upon arrival, could they depart legally?

[1] I note that the certificate holder could reduce the scheduled rest to a minimum of 8 hours.

Response: No. If, when using the actual expected flight time, the carrier cannot find at least 8 hours of look-back rest upon arrival, then the flight may not depart, under the FAA regulations. See my response to question 3 of Situation 1 above.

3. If there is a known ground stop for the destination of the final segment, which would result in look-back rest of only 7 hours and 45 minutes, can the crew legally leave the gate? If they are off the gate when the ground stop occurs, can they continue?

Response: If it is known, or reasonably should be known, that the flight time will be extended because of ground stops at the destination airport, then this information must be included in determining the actual expected flight time. If, when this information is factored in, it is known or should be known that arrival based upon the actual expected flight time will not result in at least 8 hours of look-back rest, then the flight may not leave the gate. If the flight is away from the gate, but is not yet in the air, then the flight may not take off. If the ground stops at the destination airport do not become known until after the flight is in the air, the FAA will not, as a matter of enforcement policy, take enforcement action against the flight crewmember or the certificate holder for a violation of the regulations, provided the ground stops at the destination airport are an unforeseen delay beyond the control of the certificate holder and the full, required minimum reduced rest and the compensatory rest are given at the completion of the flight segment.

4. Should the scheduled arrival time in 3 above be based upon published scheduled flight time or flight planned duration (flight time plus taxi time)?

Response: Arrival time in 3 above should be based on flight planned duration, i.e., the actual expected flight time based on the conditions existing on the day in question. Also, I am not sure what you mean by "published scheduled flight time." If you mean scheduled flight time as published in the Official Airline Guide (OAG), such flight time may be unrealistically high. Sometimes a certificate holder might overestimate the duration of a flight in order to have some cushion in the schedule and be able to report an on-time arrival. The actual realistic flight time (block to block time) may be less than such "published scheduled flight time" in the OAG.

5. Would the reason for the crew being late on the second flight (beyond the control of the air carrier or not) have any bearing on the rest requirement?

Response: I assume that your question is whether section 121.471(g) (the "circumstances beyond the control of the certificate holder" exception) excuses a rest violation. No. That exception applies only to the scheduling of flight time. It is inapplicable to, and does not excuse, a violation of a rest requirement. Also see my response to question 1 of Situation 1 in which I discuss the use of the "reduced/compensatory rest" exception, its purpose, and compliance with its terms.

Situation 3: On Day 1, one of the carrier's hubs is impacted by a weather system in the morning. As a result, the carrier decides to delay all remaining departure times that day out of the hub.

1. If a departure so delayed would result in a crew having look-back rest of less than 9 hours, would compensatory rest be required?

Response: Yes. (I assume that the look-back rest, which is less than 9 hours, would still be at least 8 hours.)

2. If the delay resulted in a crew having look-back rest of less than 8 hours, could a crew legally depart?

Response: No. The FAA would consider this flight to be in violation of the regulations.

Situation 4. The crew and air carrier know, prior to departure, that forecast winds or enroute weather are resulting in a flight plan for that segment that exceeds the normal duration published in the carrier's schedules.

1. Can the crew legally depart if the scheduled arrival time based on the flight plan would encroach upon or delay the required start of a compensatory rest period?

Response: I assume that the questions for Situation 4 relate to Day 1 and to the last flight segment. I am not sure what you mean by "published in the carrier's schedules." See my response to question 4 in Situation 3 above. If you mean that the crew and certificate holder know, prior to take-off, that en route weather conditions will result in the flight taking longer than expected, then my answer is as follows. Even if the expected termination of the last flight segment would allow a minimum 8 consecutive hours look-back rest period, if the crew and certificate holder expect, prior to take-off, that the flight will infringe on the required start of the compensator rest period, the crew may not legally depart. Thus, although the actual flight time might exceed flight time limits and although exceeding flight time limits in these circumstances would be allowed under the "circumstances beyond the control of the certificate holder" exception, that exception does not permit an encroachment on reduced rest or compensatory rest below the minimums specified in the regulations.

2. If the original crewmember's schedule did not require compensatory rest, would compensatory rest be required if the scheduled arrival based upon the flight plan information resulted in the crewmember having less than 9 hours of look-back rest upon arrival?

Response: If, upon termination of the last segment, the look-back rest was actually less than 9 hours, then compensatory rest is required regardless of the scheduled arrival.

3. If the original crewmember's schedule did not require compensatory rest, would the crewmember be legal to depart if the scheduled arrival based upon the flight plan information resulted in the crewmember having less than 8 hours of look-back rest upon arrival?

Response: No. If, at the time of departure, it is calculated that a pilot will have less than 8 hours of look-back rest upon termination of the last flight segment, then the flight may not take off. The intention to give compensatory rest may not be used to permit a pilot to take a flight when it is known at the beginning of the flight that the pilot will have less than 8 hours of look-back rest upon termination of the last flight segment.

[FR Doc. 01–12419 Filed 5–14–01; 2:00 pm]

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Federal Register

Thursday,
May 17, 2001

Part III

Department of Agriculture

Forest Service

36 CFR Part 219

National Forest System Land and Resource Management Planning; Extension of Compliance Deadline; Interim Rule and Proposed Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

National Forest System Land and Resource Management Planning; Extension of Compliance Deadline

AGENCY: Forest Service, USDA.

ACTION: Interim final rule.

SUMMARY: The Department is issuing an interim final rule to extend for one year the date specified in 36 CFR 219.35(b) by which all land and resource management plan amendments and revisions would be subject to the new planning regulations adopted November 9, 2000. The Department has determined that the Forest Service is not sufficiently prepared to fully implement the rule agencywide. Without relief from the dates established in 36 CFR 219.35(b), the agency will experience serious disruption in its planning processes with attendant confusion of employees and the public. Such disruption and confusion would be contrary to the public interest. In addition, serious concerns have arisen regarding some of the provisions of the new planning rule, and an extension of the compliance date will allow the Department to review these provisions carefully and to identify any adjustments that may be necessary. While an interim final rule is necessary, the Department also believes that the public should have an opportunity to comment on the advisability and effects of extending the compliance date. To provide this opportunity, the Department is simultaneously publishing a proposed rule elsewhere in this part of today's **Federal Register.** The Department's intent is that the interim final rule will remain in effect until the Department completes the corollary rulemaking process initiated by the proposed rule.

EFFECTIVE DATE: This interim final rule is effective May 17, 2001.

ADDRESSES: Written inquiries about or comments on this rule may be sent to the Director, Ecosystem Management Coordination Staff, USDA Forest Service, P.O. Box 96090, Washington, DC 20090–6090 or by facsimile to (202) 205–1012.

FOR FURTHER INFORMATION CONTACT: Dave Barone, Planning Specialist, Forest Service, USDA; Telephone (202) 205–1019.

SUPPLEMENTARY INFORMATION: On November 9, 2000, the Secretary of Agriculture adopted a final rule, which revised the land and resource management planning rules at 36 CFR part 219 (65 FR 67514). The new rule established requirements for the implementation, monitoring, evaluation, amendment, and revision of land and resource management plans. Under the requirements of § 219.35, all amendments and revisions to land and resource management plans must be prepared pursuant to the new planning rules, unless those amendments and revisions were initiated before November 9, 2000, and a notice of availability of the required environmental disclosure document (that is, a draft environmental impact statement or an environmental assessment) is published before May 9, 2001.

The Need for Immediate Action

Approximately 34 forests are currently revising land and resource management plans under the 1982 planning regulations (47 FR 43026, September 30, 1982) as amended (48 FR 29122; June 24, 1983 and 48 FR 40383; September 7, 1983). About 20 of these forests have conducted extensive public involvement activities under the 1982 planning regulations, but are not able to complete the necessary environmental disclosure documents by May 9, 2001. The new planning regulations require substantially different analyses to be completed prior to initiating revisions and engaging the public in the revision process. The November 2000 regulations also require different procedures for collaborating with the public in the revision process. Unless the May 9, 2001, date is extended, these ongoing revision efforts must be halted, and these forests then will have to re-engage the public using the different procedures and analyses of the new rule. The Department believes the resulting confusion, disruption of the agency's programs, and additional expenditure of public funds are unreasonable, unnecessary, and contrary to the public interest.

Another immediate concern is that many forests need to amend their land and resource management plans within the next few months to implement site-specific projects that support the objectives of the National Fire Plan, which was developed in response to the catastrophic wildfires of last summer. These projects include activities to reduce high-hazard fuels near urban and suburban areas and to restore and rehabilitate areas burned last year. Because the new regulations are less well understood, and, in some respects, more complicated than the 1982 regulations, the Department is concerned that it may not be possible for forests to complete the necessary amendments in time to implement those projects before this year's fire season begins.

Agency Readiness To Implement New Rule

In addition to the foregoing pressing concerns, the Department has determined that, despite diligent efforts, the Forest Service is not sufficiently prepared to fully implement the new planning rule agencywide. Many employees, retirees, elected officials, and representatives of external organizations interested in National Forest System management have expressed serious concerns to the new Administration regarding the agency's ability to implement some of the provisions of the new planning rule, such as ecological sustainability and species viability. The agency's ability to promptly implement the planning regulations has also been called into question through pending litigation. A coalition of environmental organizations (*Citizens for Better Forestry et al.* v. *USFS* (N.D. Calif.)) and a coalition of timber and grazing interests (*American Forest & Paper Association et al.* v. *Veneman* (D. D.C.)) have filed separate lawsuits challenging the legality of the new planning regulations on a variety of grounds.

Many of the topics addressed by the new rule are complex; many new analytical requirements are imposed; several new terms are incorporated into the planning process, some with little explanation of their meaning or use, such as critical watersheds. As a result, additional implementing direction, new training programs, and new types of technical support and skills are needed to ensure consistent and efficient implementation of the new rule. While the agency has undertaken significant efforts to develop the policies, procedures, and training programs needed to implement the new rule, these tasks not only have not been completed, but they also require substantial additional work before they are sufficient to guide the workforce in implementing the new planning rule. Accordingly, an extension of the date in § 219.35(b) is necessary for the agency to complete policies, training, and tools needed to effectively implement the new planning rule, and for the Department to have adequate opportunity to review these provisions carefully and to identify any adjustments that may be needed.

In light of these findings, the Department has directed the agency to review the new planning rule and

recommend ways to address these and any other concerns. If the agency determines that additional revisions are needed, a proposed rule incorporating the recommended changes will be published in the **Federal Register** for public comment at a later date. Given the likelihood of additional change to the November 2000 rule, it would be unreasonable to halt amendments and revisions already begun under the 1982 rule, resume those efforts under the new procedures of the November 2000 regulations, and then change the process again if revisions to the new rule are subsequently proposed and adopted.

Option To Implement New Rule

While most units are not prepared to implement fully the November 2000 rule, this interim final rule does not prohibit forests from preparing amendments or revisions of land and resource management plans under the November 2000 rule. In fact, there are several forests that have begun revisions to their land and resource management plans under the November 2000 rule, and these planning efforts not only may continue, but also may provide valuable information about the feasibility of implementing the new rule.

Exemption From Notice and Comment

The Administrative Procedure Act (the "APA") generally requires agencies to provide advance notice and an opportunity to comment on agency rulemakings. However, APA allows agencies to promulgate rules without notice and comment when an agency, for good cause, finds that notice and public comment are "impracticable, unnecessary, or contrary to the public interest." (5 U.S.C. 553(b)(3)(B)). Furthermore, the APA exempts certain rulemakings from its notice and comment requirements, including rulemakings involving "public property" and "rules of agency organization, procedure, or practice" (5 U.S.C. 553(a)(2) and (b)(3)(A)).

In 1971, Secretary of Agriculture Hardin announced a voluntary partial waiver from the APA notice and comment rulemaking exemptions. (July 24, 1971; 36 FR 13804). Thus, USDA agencies proposing rules generally provide notice and an opportunity to comment on proposed rules. However, the Hardin policy permits agencies to publish final rules without prior notice and comment when an agency finds for good cause that notice and comment procedures would be impracticable, unnecessary, or contrary to the public interest. The courts have recognized this good cause exception of the Hardin policy and have indicated that since the publication requirement was adopted voluntarily, the Secretary should be afforded "more latitude" in making a good cause determination. See *Alcaraz v. Block,* 746 F.2d 593, 612 (9th Cir. 1984).

To the extent that 5 U.S.C. section 553 applies to this interim final rule, good cause exists to exempt this rulemaking from advance notice and comment. (5 U.S.C. 553(b)(B) and 553(d)(3)). In view of these factors, the Department has determined that delaying an extension of the compliance date in § 219.35(b) in order to obtain public comment is impracticable, unnecessary, and contrary to the public interest. In the preceding parts of this preamble, the Department has made a clear showing that an extension of the compliance date is necessary to allow amendments and revisions to land and resource management plans to continue and to help ensure, among other things, timely implementation of the National Fire Plan as directed by Congress. Given the agency's inability to complete all the actions necessary to meet the May 9, 2001, deadline, it is impracticable to provide for prior public comment on this extension. The public interest is best served by extending the compliance date and avoiding the loss and duplication of agency analysis and public involvement efforts for amendments and revisions prepared pursuant to the 1982 rule.

Conclusion

For the reasons identified in this preamble, the Department is issuing an interim final rule to extend the date by which land and resource management plan amendments or revisions must comply with the November 2000 planning rule. In § 219.35(b), the date is extended from May 9, 2001, to May 9, 2002. In addition to this extension, this interim final rule would include at § 219.35(b) the interpretation of the term "initiated" as published in an interpretive rule on January 10, 2001 (66 FR 1864) to clarify this term as it applies to amendments or revisions initiated prior to May 9, 2002. The changes to § 219.35(b) are also fully consistent with the other provisions of the interpretive rule.

This interim final rule is necessary to grant relief to the approximately 20 units that have begun plan revisions under the 1982 regulations but could not meet the May 9, 2001, deadline. The interim final rule is also needed to facilitate timely implementation of site-specific projects that support the National Fire Plan. Nevertheless, the Department believes the public should have an opportunity to comment on the modification of § 219.35(b) which extends the period of use of the 1982 planning rule. Thus, the Department is simultaneously publishing this extension as a proposed rule with request for public comment in this same part of today's **Federal Register**.

Regulatory Certifications

Regulatory Impact

This is not a significant rule. This interim final rule will not have an annual effect of $100 million or more on the economy, or adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. This interim final rule will not interfere with an action taken or planned by another agency, or raise new legal or policy issues. Finally, this interim final rule will not alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this interim final rule is not subject to Office of Management and Budget (OMB) review under Executive Order 12866. Moreover, this interim final rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This interim final rule will not have a significant economic impact on a substantial number of small entities as defined by the Act. This interim final rule will not impose recordkeeping requirements; will not affect their competitive position in relation to large entities; and will not affect their cash flow, liquidity, or ability to remain in the market.

Environmental Impact

This interim final rule has no direct or indirect effect on the environment, but merely extends the date by which amendments and revisions of land and resource management plans may be continued under the 1982 planning rule, as well as the date by which plans must conform to the November 2000 rule. The planning regulation itself deals with the development and adoption of Forest Service land and resource management plan decisions as well as procedures for developing site-specific decisions that may include decisions regarding the occupancy and use of National Forest System land. An environmental assessment was completed on the November 2000 planning rule, with a finding that the rule would have no significant impact on the environment. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement rules,

regulations or policies to establish Service-wide administrative procedures, program processes, or instructions. Based on the nature and scope of this rulemaking and the procedural nature of 36 CFR part 219, the agency has determined that this interim final rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

No Takings Implications

This interim final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12360, and it has been determined that the interim final rule will not pose the risk of a taking of private property, as the interim final rule is limited to adjustment of the compliance date in the new planning rule.

Civil Justice Reform

This interim final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This interim final rule (1) does not preempt State and local laws and regulations that conflict with or impede its full implementation; (2) has no retroactive effect; and (3) will not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the agency has assessed the effects of this interim final rule on State, local and tribal governments and the private sector. This interim final rule will not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Federalism and Consultation and Coordination With Tribal Governments

The Department has considered this interim final rule under the requirements of Executive Orders 12612 and 13132 and concluded that the rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment of federalism implications is necessary at this time.

This interim final rule does not have tribal implications as defined in Executive Order 13175 and, therefore, advance consultation with tribes is not required.

Controlling Paperwork Burdens on the Public

This interim final rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and implementing regulations at 5 CFR part 1320 do not apply.

List of Subjects in 36 CFR Part 219

Administrative practice and procedure, Environmental impact statements, Indians, Intergovernmental relations, Forest and forest products, National forests, Natural resources, Reporting and recordkeeping requirements, Science and technology.

Therefore, for the reasons set forth in the preamble, part 219 of title 36 of the Code of Federal Regulations is amended as follows:

PART 219—PLANNING

Subpart A—National Forest System Land and Resource Management Planning

1. The authority citation for subpart A continues to read as follows:

Authority: 5 U.S.C. 301; and Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613).

2. Revise paragraph (b) of § 219.35 to read as follows:

§ 219.35 Transition.

(a) * * *

(b) Until May 9, 2002, a responsible official may elect to continue or to initiate new plan amendments or revisions under the 1982 planning regulations in effect prior to November 9, 2000 (See 36 CFR parts 200 to 299, Revised as of July 1, 2000), or the responsible official may conduct the amendment or revision process in conformance with the provisions of this subpart. For the purposes of this paragraph, the reference to a plan amendment or revision initiated before May 9, 2002, means that the agency has issued a Notice of Intent or other public notification announcing the commencement of a plan amendment or revision as provided for in the Council on Environmental Quality regulations at 40 CFR 1501.7 or in Forest Service Handbook 1909.15, Environmental Policy and Procedures Handbook, section 11.

* * * * *

Dated: May 10, 2001.

Ann M. Veneman,

Secretary.

[FR Doc. 01–12384 Filed 5–14–01; 2:27 pm]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

National Forest System Land and Resource Management Planning; Extension of Compliance Deadline

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department is proposing to extend for one year the date specified in 36 CFR 219.35(b) by which all land and resource management plan amendments and revisions would be subject to the new planning regulations adopted November 9, 2000. The Department has determined that the Forest Service is not sufficiently prepared to fully implement the rule agencywide. Without relief from the dates established in 36 CFR 219.35(b), the agency will experience serious disruption in its planning processes with attendant confusion of employees and the public. Such disruption and confusion would be contrary to the public interest. In addition, serious concerns have arisen regarding some of the provisions of the new planning rule, and an extension of the compliance date will allow the Department to review these provisions carefully and to identify any adjustments that may be necessary.

In addition to this proposed rule, the Department is also adopting an interim final rule to immediately extend the compliance date in 36 CFR 219.35(b) to May 9, 2002. This interim final rule, published elsewhere in this part of today's **Federal Register**, will remain in effect until the Department adopts a final rule following receipt and consideration of comments on this proposed rule.

DATES: Comments must be received in writing by July 16, 2001.

ADDRESSES: Send written comments to Content Analysis Team, USDA Forest Service Attention: NFMA Planning Regulations Proposed Extension, 200 East Broadway, Room 301, P.O. Box 7669, Missoula, MT 59807. Send e-mail comments to mailroom_wo_caet@fs.fed.us and indicate "Planning Rule Extension" in the subject line.

FOR FURTHER INFORMATION CONTACT: Dave Barone, Planning Specialist, Forest Service, USDA; Telephone (202) 205–1019.

SUPPLEMENTARY INFORMATION: On November 9, 2000, the Secretary of Agriculture adopted a final rule, which revised the land and resource management planning rules at 36 CFR part 219 (65 FR 67514). The new rule established requirements for the implementation, monitoring, evaluation, amendment, and revision of land and resource management plans. Under the requirements of § 219.35, all amendments and revisions to land and resource management plans must be prepared pursuant to the new planning rules, unless those amendments and revisions were initiated before November 9, 2000, and a notice of availability of the required environmental disclosure document (that is, a draft environmental impact statement or an environmental assessment) is published before May 9, 2001.

The Need for Extension

Approximately 34 forests are currently revising land and resource management plans under the 1982 planning regulations (47 FR 43026, September 30, 1982) as amended (48 FR 29122; June 24, 1983 and 48 FR 40383; September 7, 1983). About 20 of these forests have conducted extensive public involvement activities under the 1982 planning regulations, but are not able to complete the necessary environmental disclosure documents by May 9, 2001. The new planning regulations require substantially different analyses to be completed prior to initiating revisions and engaging the public in the revision process. The November 2000 regulations also require different procedures for collaborating with the public in the revision process. Unless the May 9, 2001, date is extended, these ongoing revision efforts must be halted, and these forests then will have to re-engage the public using the different procedures and analyses of the new rule. The Department believes the resulting confusion, disruption of the agency's programs, and additional expenditure of public funds are unreasonable, unnecessary, and contrary to the public interest.

Another immediate concern is that many forests need to amend their land and resource management plans within the next few months to implement site-specific projects that support the objectives of the National Fire Plan, which was developed in response to the catastrophic wildfires of last summer. These projects include activities to reduce high-hazard fuels near urban and suburban areas and to restore and rehabilitate areas burned last year. Because the new regulations are less well understood, and, in some respects, more complicated than the 1982 regulations, the Department is concerned that it may not be possible for forests to complete the necessary amendments in time to implement those projects before this year's fire season begins.

Agency Readiness To Implement New Rule

In addition to the foregoing pressing concerns, the Department has determined that, despite diligent efforts, the Forest Service is not sufficiently prepared to fully implement the new planning rule agencywide. Many employees, retirees, elected officials, and representatives of external organizations interested in National Forest System management have expressed serious concerns to the new Administration regarding the agency's ability to implement some of the provisions of the new planning rule, such as ecological sustainability and species viability. The agency's ability to promptly implement the planning regulations has also been called into question through pending litigation. A coalition of environmental organizations (*Citizens for Better Forestry et al.* v. *USFS* (N.D. Calif.)) and a coalition of timber and grazing interests (*American Forest Paper Association et al.* v. *Veneman* (D. D.C.)) have filed separate lawsuits challenging the legality of the new planning regulations on a variety of grounds.

Many of the topics addressed by the new rule are complex; many new analytical requirements are imposed; several new terms are incorporated into the planning process, some with little explanation of their meaning or use, such as critical watersheds. As a result, additional implementing direction, new training programs, and new types of technical support and skills are needed to ensure consistent and efficient implementation of the new rule. While the agency has undertaken significant efforts to develop the policies, procedures, and training programs needed to implement the new rule, these tasks not only have not been completed, but they also require substantial additional work before they are sufficient to guide the workforce in implementing the new planning rule. Accordingly, an extension of the date in § 219.35(b) is necessary for the agency to complete policies, training, and tools needed to effectively implement the new planning rule, and for the Department to have adequate opportunity to review these provisions carefully and to identify any adjustments that may be needed.

In light of these findings, the Department has directed the agency to review the new planning rule and

recommend ways to address these and any other concerns. If the agency determines that additional revisions are needed, a second proposed rule incorporating the recommended changes will be published in the **Federal Register** for public comment at a later date. Given the liklihood of additional change to the November 2000 rule, it would be unreasonable to halt amendments and revisions already begun under the 1982 rule, resume those efforts under the new procedures of the November 2000 regulations, and then change the process again if revisions to the new rule are subsequently proposed and adopted.

Option To Implement New Rule

While most units are not prepared to fully implement the November 2000 rule, this proposed rule would not prohibit forests from preparing amendments or revisions of land and resource management plans under the November 2000 rule. In fact, there are several forests that have begun revisions to their land and resource management plans under the November 2000 rule, and these planning efforts may provide valuable information about implementing the new rule.

Conclusion

For the reasons identified in this preamble, the Department is proposing to extend the date by which land and resource management plan amendments or revisions must comply with the November 2000 planning rule. In § 219.35(b), the date is proposed to be extended from May 9, 2001, to May 9, 2002. In addition to this extension, this proposed rule would include at § 219.35(b) the interpretation of the term "initiated" as published in an interpretive rule on January 10, 2001 (66 FR 1864) to clarify this term as it applies to amendments or revisions initiated prior to May 9, 2002. The proposed changes to § 219.35(b) are also fully consistent with the other provisions of the interpretive rule.

This proposed rule is necessary to grant relief to the approximately 20 units that have begun plan revisions under the 1982 regulations but could not meet the May 9, 2001, deadline. The proposed rule is also needed to facilitate timely implementation of site-specific projects that support the National Fire Plan. The Department is simultaneously publishing this extension in an interim final rule effective immediately. Nevertheless, the Department also believes the public should have an opportunity to comment on the modification of § 219.35(b) which would extend the period during which the 1982 planning rule could be used.

Regulatory Certification

Regulatory Impact

This is not a significant rule. This proposed rule will not have an annual effect of $100 million or more on the economy, or adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. This proposed rule will not interfere with an action taken or planned by another agency, or raise new legal or policy issues. Finally, this proposed rule will not alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this proposed rule is not subject to Office of Management and Budget (OMB) review under Executive Order 12866. Moreover, this proposed rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This proposed rule will not have a significant economic impact on a substantial number of small entities as defined by the Act. This proposed rule will not impose recordkeeping requirements; will not affect their competitive position in relation to large entities; and will not affect their cash flow, liquidity, or ability to remain in the market.

Environmental Impact

This proposed rule has no direct or indirect effect on the environment, but merely proposes to extend the date by which amendments and revisions of land and resource management plans may be continued under the 1982 planning rule, as well as the date by which plans must conform to the November 2000 rule. The planning regulation itself deals with the development and adoption of Forest Service land and resource management plan decisions as well as procedures for developing site-specific decisions that may include decisions regarding the occupancy and use of National Forest System land. An environmental assessment was completed on the November 2000 planning rule, with a finding that the rule would have no significant impact on the environment. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement rules, regulations or policies to establish Service-wide administrative procedures, program processes, or instructions. Based on the nature and scope of this rulemaking and the procedural nature of 36 CFR part 219, the agency has determined that this proposed rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

No Takings Implications

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12360, and it has been determined that the proposed rule will not pose the risk of a taking of private property, as the proposed rule is limited to adjustment of the compliance date in the new planning rule.

Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule (1) does not preempt State and local laws and regulations that conflict with or impede its full implementation; (2) has no retroactive effect; and (3) will not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the agency has assessed the effects of this proposed rule on State, local and tribal governments and the private sector. This proposed rule will not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Federalism and Consultation and Coordination With Tribal Governments

The Department has considered this proposed rule under the requirements of Executive Orders 12612 and 13132 and concluded that the rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment of federalism implications is necessary at this time.

This proposed rule does not have tribal implications as defined in Executive Order 13175 and, therefore, advance consultation with tribes is not required.

Controlling Paperwork Burdens on the Public

This proposed rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and implementing regulations at 5 CFR part 1320 do not apply.

List of Subjects in 36 CFR Part 219

Administrative practice and procedure, Environmental impact statements, Indians, Intergovernmental relations, Forest and forest products, National forests, Natural resources, Reporting and recordkeeping requirements, Science and technology.

Therefore, for the reasons set forth in the preamble, part 219 of title 36 of the Code of Federal Regulations is proposed to be amended as follows:

PART 219—PLANNING

Subpart A—National Forest System Land and Resource Management Planning

1. The authority citation for subpart A continues to read as follows:

Authority: 5 U.S.C. 301; and Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613).

2. Revise paragraph (b) of § 219.35 to read as follows:

§ 219.35 Transition.

* * * * *

(b) Until May 9, 2002, a responsible official may elect to continue or to initiate new plan amendments or revisions under the 1982 planning regulations in effect prior to November 9, 2000 (See 36 CFR Parts 200 to 299, Revised as of July 1, 2000), or the responsible official may conduct the amendment or revision process in conformance with the provisions of this subpart. For the purposes of this paragraph, the reference to a plan amendment or revision initiated before May 9, 2002, means that the agency has issued a Notice of Intent or other public notification announcing the commencement of a plan amendment or revision as provided for in the Council on Environmental Quality regulations at 40 CFR 1501.7 or in Forest Service Handbook 1909.15, Environmental Policy and Procedures Handbook, section 11.

* * * * *

Dated: May 10, 2001.

Ann M. Veneman,

Secretary.

[FR Doc. 01–12385 Filed 5–14–01; 2:27 pm]

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Thursday,
May 17, 2001

Part IV

Commodity Futures Trading Commission

17 CFR Part 41

Securities and Exchange Commission

17 CFR Part 240

Method for Determining Market Capitalization and Dollar Value of Average Daily Trading Volume; Application of the Definition of Narrow-Based Security Index; Proposed Rules

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 41

RIN 3038–AB77

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–44288; File No. S7–11–01]

RIN 3235–AI13

Method for Determining Market Capitalization and Dollar Value of Average Daily Trading Volume; Application of the Definition of Narrow-Based Security Index

AGENCIES: Commodity Futures Trading Commission and Securities and Exchange Commission.

ACTION: Joint proposed rules.

SUMMARY: The Commodity Futures Trading Commission ("CFTC") and the Securities and Exchange Commission ("SEC") (collectively, "Commissions") are proposing Rule 41 under the Commodity Exchange Act ("CEA") and Rules 3a55–1 through 3a55–3 under the Securities Exchange Act of 1934 ("Exchange Act"). These proposed rules would implement new statutory provisions enacted by the Commodity Futures Modernization Act of 2000 ("CFMA"). Specifically, the CFMA directs the Commissions to jointly specify by rule or regulation the method to be used to determine "dollar value of average daily trading volume" and "market capitalization" for purposes of the new definition of "narrow-based security index" in the CEA and the Exchange Act. Proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act are intended to fulfill this statutory directive by specifying such methods. In addition, these proposed rules define certain terms that would add clarity to the statutory definition of "narrow-based security index."

In addition, proposed Rule 41.12 under the CEA and proposed Rule 3a55–2 under the Exchange Act would create an exception to the definition of narrow-based security index, to permit, subject to certain conditions, a designated contract market, registered derivatives transaction execution facility ("DTEF"), or foreign board of trade to continue trading a contract of sale for future delivery on a security index that becomes a narrow-based security index during the first 30 days after the future begins trading. Similarly, proposed Rule 41.14 under the CEA would permit a national securities exchange to continue trading a contract of sale for future delivery on an index that ceases to be a narrow-based security index, subject to certain conditions. These rules are intended to minimize market disruption when a broad-based security index becomes a narrow-based security index, and when a narrow-based security index becomes a broad-based security index.

Finally, proposed Rule 41.13 under the CEA and proposed Rule 3a55–3 under the Exchange Act would provide that when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, that index shall not be considered a narrow-based security index if it would not be a narrow-based security index pursuant to the statutory definition of a narrow-based security index or the exclusions from that definition. These rules would clarify and establish that when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, the index underlying such contract shall be considered a broad-based security index if it qualifies as such pursuant to the statutory definition of narrow-based security index, or pursuant to the exclusions from that definition.

DATES: Comments must be received on or before June 18, 2001.

ADDRESSES: Comments should be sent to both agencies at the addresses listed below.

CFTC: Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, Attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418–5521, or by e-mail to secretary@cftc.gov. Reference should be made to "Narrow-Based Security Indexes."

SEC: Persons wishing to submit written comments should send three copies to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–11–01; this file number should be included on the subject line if e-mail is used. Comment letters received will be available for public inspection and copying in the SEC's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549–0102. Electronically submitted comment letters will be posted on the SEC's Internet web site (http://www.sec.gov). The SEC does not edit personal identifying information, such as names or e-mail addresses, from electronic submissions. Submit only the information you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT:

CFTC: Elizabeth L.R. Fox, Acting Deputy General Counsel; Richard A. Shilts, Acting Director; or Thomas M. Leahy, Jr., Financial Instruments Unit Chief, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5000. E-mail: (EFox@cftc.gov), (RShilts@cftc.gov), or (TLeahy@cftc.gov).

SEC: Nancy J. Sanow, Assistant Director, at (202) 942–0771; Ira L. Brandriss, Special Counsel, at (202) 942–0148; or Sapna C. Patel, Attorney, at (202) 942–0166, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION: The Commissions are proposing Subparts A and B of Rule 41 (Rules 41.1 and 41.2 and Rules 41.10 through 41.14) under the CEA,[1] 17 CFR 41, and Rules 3a55–1 through 3a55–3 under the Exchange Act,[2] 17 CFR 3a55–1 through 3a55–3.[3]

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[1] All references to the CEA are to 7 U.S.C. 1 *et seq.*

[2] All references to the Exchange Act are to 15 U.S.C. 78a *et seq.*

[3] Subpart A of proposed Rule 41 under the CEA consists of general provisions for purposes of the rule, including definitions (Rule 41.1) and recordkeeping requirements (Rule 41.2). Subpart B of proposed Rule 41, "Narrow-Based Security Indexes," begins with proposed Rule 41.10 on purpose and scope. Proposed Rules 41.11, 41.12, and 41.13 of Subpart B correspond to proposed Rules 3a55–1, 3a55–2, and 3a55–3 under the Exchange Act, respectively. Proposed Rule 41.14 of Subpart B parallels provisions incorporated in the CEA and the Exchange Act by the CFMA.

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I. Introduction

The CFMA,[4] which became law on December 21, 2000, lifted the ban on single stock and narrow-based stock index futures ("security futures"). In addition, the CFMA established a framework for the joint regulation of these newly-permissible products by the CFTC and the SEC.

Prior to enactment of the CFMA, the Shad-Johnson Accord ("Accord") governed trading in contracts of sale for future delivery ("futures contracts" or "futures") on securities and security indexes. Negotiated by the Chairmen of the SEC and the CFTC in 1982 and signed into law in 1983, the Accord permitted futures exchanges to offer futures contracts on security indexes if the contracts satisfied certain statutory criteria: (1) the contract had to be cash-settled; (2) the contract could not be readily susceptible to manipulation; and (3) the underlying securities had to measure and reflect the entire market or a substantial segment of the market, *i.e.*, it was a contract on a "broad-based" security index.[5] The Accord prohibited any futures contracts on security indexes that did not meet these criteria.

In addition to repealing the prohibition on certain types of security futures, the CFMA amended the CEA and the Exchange Act by adding a definition of "narrow-based security index." This definition establishes an objective test of whether a security index is narrow-based.[6] Futures contracts on security indexes that are narrow-based security indexes will be jointly regulated by the CFTC and the SEC under the framework established by the CFMA.[7] Futures contracts on indexes that are broad-based security indexes,[8] on the other hand, are under the sole jurisdiction of the CFTC and, therefore, only designated contract markets, registered derivatives transaction execution facilities ("DTEFs"), and foreign boards of trade may trade these products.

For this reason, it is important that the definition of "narrow-based security index" in the CEA and the Exchange Act be easily understood and applied by market participants. As directed by the CFMA, the rules jointly proposed today by the Commissions specify the method to be used to determine market capitalization and dollar value of average daily trading volume for purposes of the new definition of "narrow-based security index."[9]

The proposed rules would also establish provisions governing certain circumstances when narrow-based security indexes become broad-based, and when broad-based security indexes become narrow-based.

II. Definition of "Narrow-Based Security Index"

The CFMA amended the definition of "security" in the Exchange Act,[10] the Securities Act of 1933 ("Securities Act"),[11] the Investment Company Act of 1940 ("Investment Company Act"),[12] and the Investment Advisers Act of 1940 ("Investment Advisers Act")[13] to include a "security future." For purposes of each of those Acts, as well as the CEA, "security future" is defined, in relevant part, as "a contract of sale for future delivery of a single security or of a *narrow-based security index*."[14] The definition of "narrow-based security index" in the CEA and the Exchange Act is the focus of this release.[15]

A. Indexes Included within the Definition of a Narrow-Based Security Index

Under the CEA and the Exchange Act, an index is a "narrow-based security index" if it has *any one* of the following four characteristics: (1) it has nine or fewer component securities; (2) any one of its component securities comprises more than 30% of its weighting; (3) any group of five of its component securities together comprise more than 60% of its weighting; or (4) the lowest weighted component securities comprising, in the aggregate, 25% of the index's weighting have an aggregate dollar value of average daily trading volume ("ADTV") of less than $50 million (or in the case of an index with 15 or more component

[4] Pub. L. No. 106–554, 114 Stat. 2763 (2000).

[5] Section 2(a)(1)(B) of the CEA implemented the terms of the 1982 jurisdictional accord between the SEC and the CFTC. Futures Trading Act of 1982 Section 101, Publ. Law. No. 97–444, 96 Stat 2294 [codified at 7 U.S.C. Section 2(a)], *repealed by* the Commodity Futures Modernization Act of 2000, Pub. L. No. 106–554, 114 Stat. 2763 (2000).

[6] *See* Section 1a(25) of the CEA and Section 3(a)(55) of the Exchange Act.

[7] No person may execute or trade a security future product until the later of December 21, 2001 or such date that a futures association registered under Section 17 of the CEA meets the requirements in Section 15A(k)(2) of the Exchange Act, except that beginning on August 21, 2001, eligible contract participants may enter into transactions with each other on a principal-to-principal basis.

[8] Use of the term "broad-based security index" in this release means a security index that is not a narrow-based security index.

[9] Section 1a(25)(E) of the CEA and Section 3(a)(55)(F) of the Exchange Act.

[10] Section 3(a)(10) of the Exchange Act.

[11] Section 2(a)(14) of the Securities Act, 15 U.S.C. 77b(a)(14).

[12] Section 2(a)(36) of the Investment Company Act, 15 U.S.C. 80a–2(a)(36).

[13] Section 202(a)(18) of the Investment Advisers Act, 15 U.S.C. 80b–2(a)(18).

[14] The term "security future" is defined in Section 3(a)(55)(A) of the Exchange Act. This definition is incorporated by reference in Section 2(a)(16) of the Securities Act, 15 U.S.C. 77b(a)(16); Section 2(a)(52) of the Investment Company Act, 15 U.S.C. 80a–2(a)(52); and Section 202(a)(27) of the Investment Advisers Act, 15 U.S.C. 80b–2(a)(27). "Security future" is also defined in Section 1a(31) of the CEA.

[15] *See* Section 3(a)(55) of the Exchange Act. The definition of "narrow-based security index" in the Exchange Act is incorporated by reference in Section 2(a)(16) of the Securities Act, 15 U.S.C. 77b(a)(16); Section 2(a)(52) of the Investment Company Act, 15 U.S.C. 80a–2(a)(52); and Section 202(a)(27) of the Investment Advisers Act, 15 U.S.C. 80b–2(a)(27). "Narrow-based security index" is also defined in Section 1a(25) of the CEA.

securities, $30 million).[16] An index that has none of the four characteristics set forth above is not a "narrow-based security index." Accordingly, any contract of sale for future delivery on such an index would not be a security future and thus would be subject to the sole jurisdiction of the CFTC.[17]

With regard to the fourth test noted above, *i.e.*, whether an index is a "narrow-based security index" based on the dollar value of ADTV of the lowest weighted securities in the index, the CEA and the Exchange Act require the CFTC and SEC to jointly specify the method of determining the dollar value of average daily trading volume, and mandate that this value be calculated as of the "preceding 6 full calendar months."[18] The proposed rules discussed below in Part III. of this release specify such a method and define the terms "preceding 6 full calendar months" and "lowest weighted 25% of the index's weighting" as those terms are used in the proposed rules.

B. Indexes Excluded from the Definition of a Narrow-Based Security Index

In addition to defining an index as narrow-based if the index has any of the characteristics described above, the definition of "narrow-based security index" in the CEA and Exchange Act *excludes* from its scope indexes that satisfy certain criteria. Any contract of sale for future delivery on an index excluded from the definition, as described below, is not a security futures product under the securities laws, and thus would be subject solely to the jurisdiction of the CFTC.

1. The Index's Component Securities Have High Market Capitalization and Dollar Value of Average Daily Trading Volume

Under the CEA and the Exchange Act, an index is not a "narrow-based security index" if it has *all* of the following characteristics: (1) it has at least nine component securities; (2) no component security comprises more than 30% of its weighting; (3) each of its component securities is registered under Section 12 of the Exchange Act; and (4) each component security is one of 750 securities with the largest market capitalization ("Top 750") and one of 675 securities with the largest dollar value of ADTV ("Top 675").[19]

The CEA and the Exchange Act require the Commissions to jointly specify the method to be used to determine market capitalization and dollar value of ADTV for purposes of this exclusion from the definition of "narrow-based security index."[20] These values are to be calculated as of the preceding 6 full calendar months.[21] The rules the Commissions are proposing today specify the methods to determine these values, and are discussed below in Part III.

To assure that a futures contract on a security index qualifies for this exclusion, a designated contract market, registered DTEF, or foreign board of trade trading the futures contract must calculate both the Top 750 and Top 675 securities based on market capitalization and dollar value of ADTV, respectively, for the preceding 6 full calendar months, in addition to assessing compliance with the exclusion's other criteria.[22]

Q1: The Commissions request comment on whether it would be difficult for market participants to determine the Top 750 and Top 675 out of all securities registered under Section 12 of the Exchange Act. Should the Commissions establish, by rule, a subset of Section 12-registered securities from which market participants would have to determine the Top 750 and Top 675? If so, what should this subset of securities be? For example, would it be appropriate to limit the universe of securities from which market participants determine the Top 750 and Top 675 to the securities traded on the New York Stock Exchange, the Nasdaq National Market System, and the American Stock Exchange? Is there another subset that would be more appropriate, such as the securities comprising the Russell 3000 Index?

Q2: The Commissions also request comment on whether they should undertake to determine the Top 750 and Top 675. For example, should the Commissions determine these securities and make these lists publicly available? If the Commissions do this, how often should the Top 750 and Top 675 be determined and published? Monthly? Quarterly? More or less often? If the Commissions do publish such lists, they would have to establish a rule that any security that appears on both the Top 750 and Top 675 list would be deemed to be one of the Top 750 and Top 675 securities every day during the period in which these lists were publicly available. Conversely, any security that did not appear on the lists would be deemed not to satisfy paragraph (B)(i)(III) of Section 1a(25) of the CEA and paragraph (C)(i)(III) of Section 3(a)(55) of the Exchange Act. The Commissions solicit commenters' views on the benefits and drawbacks of this approach and on any preferable methods for the Commissions to determine the Top 750 and the Top 675.

Q3: Are there any other approaches or issues that the Commissions should consider with respect to determining the Top 750 and Top 675?

2. A Futures Contract on a Broad-Based Security Index that Becomes Narrow-Based

a. Statutory Grace Period

If a futures contract were trading on an index that was broad-based for at least 30 days and subsequently the index became a narrow-based security index, the index is excluded from the definition of a "narrow-based security index" if it is narrow-based for 45 or fewer business days over the course of three consecutive calendar months. If the index is a "narrow-based security index" for *more than 45* business days over three consecutive calendar months, the index is a "narrow-based security index," but the Exchange Act and the CEA provide a temporary grace period of three months before the futures contract becomes a security future.[23] In contrast, under these statutory provisions, if the futures contract has been trading for *fewer than 30* days as a contract of sale for future delivery on an index that is not a "narrow-based security index," the future would become a security futures product immediately if the index satisfies any of the criteria set forth in Section 1a(25)(A) of the CEA and Section 3(a)(55)(B) of the Exchange Act.[24]

[16] Section 1a(25)(A)(i)—(iv) of the CEA and Section 3(a)(55)(B)(i)—(iv) of the Exchange Act.

[17] *See* Section 2(a)(1)(C)(ii) of the CEA. A contract of sale for future delivery on a security index that is not a narrow-based security index may include component securities that are not registered under Section 12 of the Exchange Act.

[18] Section 1a(25)(E) of the CEA and Section 3(a)(55)(F) of the Exchange Act.

[19] Section 1a(25)(B)(i) of the CEA and Section 3(a)(55)(C)(i) of the Exchange Act.

[20] Section 1a(25)(E) of the CEA and Section 3(a)(55)(F) of the Exchange Act.

[21] *Id.*

[22] As a general matter, any national securities exchange, designated contract market, registered DTEF, or foreign board of trade that trades a futures contract on a security index will be required to determine whether or not the contract is a security future to assure that the market is in compliance with the CEA and the Exchange Act. The Commissions note that national securities exchanges, designated contract markets, or registered DTEFs that trade security index futures will need to preserve records of all their determinations with respect to the daily narrow-based or non-narrow-based status of security indexes in order to comply with their recordkeeping requirements under Sections 5(d)(17) and 5a(d)(8) of the CEA and proposed Rule 41.2 under the CEA, and Rule 17a–1 under the Exchange Act, 17 CFR 240.17a–1.

[23] Section 1a(25)(D) of the CEA and Section 3(a)(55)(E) of the Exchange Act.

[24] *See supra* note 16 and accompanying text.

If a security index on which a futures contract is trading became narrow-based for more than 45 days over three consecutive months, and thus pursuant to Section 1a(25)(D) of the CEA and Section 3(a)(55)(E) of the Exchange Act becomes narrow-based, the Commissions believe that in order for trading to continue to be regulated exclusively by the CFTC, the designated contract market, registered DTEF, or foreign board of trade trading the contract would be required, before the temporary three-month grace period elapses, to change the composition of, or weightings of securities in, the index so that the index is not a narrow-based security index. Alternatively, the designated contract market, registered DTEF, or foreign board of trade trading a futures contract on such index could comply with the requirements of the securities laws applicable to security futures products.

Q4: Should the Commissions specify expressly the extent of changes a designated contract market, registered DTEF, or foreign board of trade needs to make to an index before the end of the temporary three-month grace period so that it does not need to comply with the securities laws applicable to markets trading security futures products? If so, commenters are asked for their views on what types of changes should be required.

b. Proposed Exclusion from the Definition of Narrow-Based Security Index During First 30 Days of Trading

To address the potential dislocation of market participants trading a future on an index that becomes narrow-based during the first 30 days of trading, and thus does not qualify for the statutory grace period under Section 1a(25)(D) of the CEA and Section 3(a)(55)(E) of the Exchange Act, the Commissions are proposing Rule 41.12 under the CEA and Rule 3a55–2 under the Exchange Act. These rules are being proposed pursuant to paragraph (vi) of Section 1a(25)(B) of the CEA and Section 3(a)(55)(C) of the Exchange Act, which permit the Commissions to establish, by rule, requirements for futures contracts on indexes that, if met, would provide additional exclusions from the definition of a "narrow-based security index." [25]

Specifically, the proposed rules would provide an exclusion from the definition of narrow-based security index for a futures contract that began trading on a security index that was not narrow-based and became narrow-based during the first 30 days after it began trading, if the index would not have been a narrow-based index, had it been in existence, for an uninterrupted period of 6 months prior to the first day of trading. The Commissions preliminarily believe that this six-month period is appropriate as an indication that the change in the index's character during the first 30 days was an anomaly, so that a temporary exclusion from the definition of a narrow-based security index is warranted.

The proposed rules provide, however, that an index that is not a narrow-based security index for the first 30 days of trading, as discussed above, *would* become a narrow-based security index if it has been a narrow-based security index for more than 45 business days over three consecutive calendar months, and would be a security future, with the attendant legal obligations, following an additional three-month grace period.

Q5: The Commissions request commenters to provide their views on proposed Rule 41.12 under the CEA and proposed Rule 3a55–2 under the Exchange Act. In particular, the Commissions request comment on their proposal that an index not be narrow-based for 6 months prior to a futures contract on such index commencing to trade in order for the exclusion in these proposed rules to apply. Is 6 months the appropriate time frame?

3. Proposed Rule for Futures Contracts Traded on or Subject to the Rules of a Foreign Board of Trade

As noted above, the statutory definition of narrow-based security index set forth in Section 1a(25)(A) of the CEA and Section 3(a)(55)(B) of the Exchange Act, and the exclusions from that definition provided by Section 1a(25)(B) of the CEA and Section 3(a)(55)(C) of the Exchange Act, in effect also define a broad-based security index. The federal securities laws do not apply to futures contracts on broad-based security indexes. Prior to the enactment of the CFMA, futures contracts on broad-based security indexes were reviewed by both the CFTC and the SEC to ensure compliance with the provisions of the Shad-Johnson Accord. Specifically, this review evaluated whether the contract was cash-settled, not readily susceptible to manipulation, and represented a broad market segment. The CFMA altered the statutory requirements for approval of broad-based indexes such that no approval or review is required by the SEC for these products.

With regard to security index futures traded on or subject to the rules of foreign boards of trade, the Commissions believe that security indexes underlying such contracts should be considered broad-based security indexes if they qualify as such pursuant to the statutory definition of a narrow-based index, or pursuant to the exclusions from that definition. The Commissions are proposing Rule 41.13 under the CEA and Rule 3a55–3 under the Exchange Act to clarify and establish that when a futures contract on an index is traded on or subject to the rules of a foreign board of trade, such index would not be a narrow-based security index (*i.e.*, it would be broad-based) if it would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered DTEF.[26] The Commissions recognize their obligation to jointly adopt rules or regulations that set forth the requirements that a futures contract on a security index traded on or subject to the rules of a foreign board of trade must meet in order for the index to be excluded from the definition of narrow-based security index and request comment on how rules relating to foreign broad-based indexes should address issues specific to indexes traded on or subject to the rules of a foreign board of trade.

Additionally, the Commissions note that Section 1a(25)(B)(v) of the CEA and Section 3(a)(55)(C)(v) of the Exchange Act create a "grandfather" provision that permits the offer and sale in the United States of security index futures traded on or subject to the rules of foreign boards of trade that were authorized by the CFTC before the CFMA was enacted.[27] This "grandfather" provision is in effect for 18 months after the CFMA's enactment, after which such indexes will be subject

[25] Section 1a(25)(B)(vi) of the CEA and Section 3(a)(55)(C)(vi) of the Exchange Act provide that notwithstanding the definition of narrow-based security index, an index is not a narrow-based security if a futures contract is "traded on or subject to the rules of a board of trade and meets such requirements as are jointly established by rule, regulation, or order by [the Commissions]."

[26] Section 1a(25)(B)(iv) of the CEA and Section 3(a)(55)(C)(iv) of the Exchange Act grant the Commissions joint authority to exclude an index underlying a futures contract from the definition of narrow-based security index when that index is traded on or subject to the rules of a foreign board of trade and meets such requirements that are established by rule or regulation jointly by the Commissions.

[27] Certain such futures contracts are currently offered to U.S. customers pursuant to no-action letters by the CFTC staff, to which the SEC did not object. The Commissions note that some of the index futures trading on or subject to the rules of foreign boards of trade that are trading pursuant to such no-action letters would not be considered to be broad-based index futures under Sections 1a(25)(A) or 1a(25)(B)(i) of the CEA and Sections 3(a)(55)(B) or 3(a)(55)(C)(i) of the Exchange Act.

to the ongoing requirements of the CEA and any new standard in effect thereafter.

The Commissions have identified and request comment on the following issues:

Q6: The Commissions ask for comment on their proposed rules. As noted above, the Commissions propose that the statutory definition of narrow-based security index under Section 1a(25)(A) of the CEA and Section 3(a)(55)(B) of the Exchange Act and the exclusion under Section 1a(25)(B)(i) of the CEA and Section 3(a)(55)(C)(i) of the Exchange Act would be applicable to futures on indexes traded on or subject to the rules of a foreign board of trade, including indexes comprised of domestic securities as well as those that are comprised primarily of securities traded on foreign markets. Would it be appropriate for the statutory definition and exclusion to be the sole criteria for index futures traded on or subject to the rules of a foreign board of trade? [28] If not, what issues should be considered in order to develop an additional exclusion from the statutory definition to describe whether an index that underlies a future trading on or subject to the rules of a foreign board of trade is broad-based?

Q7: What criteria should be set forth for futures on indexes traded on or subject to the rules of a foreign board of trade in order for such indexes to be considered broad-based? For example, commenters are asked for their views regarding criteria for the depth of the market, the concentration of the component securities, the permissibility of any affiliation among the issuers of component securities, the liquidity of component securities, and any other factors.

Q8: What provisions should be included to assure the accuracy of the information that is used to determine that the index is broad-based, in view of the fact that certain key data regarding such foreign securities is often not required to be disclosed.

Q9: If commenters believe that an additional exclusion is warranted, what are the unique characteristics of foreign securities and foreign securities markets that would argue in favor of a different standard for determining whether an index comprised of such securities is broad-based? Commenters are also requested to provide their views on the impact of such a different standard on investor protection. Taking into account the nature and size of the markets for the securities underlying the index, is it appropriate to consider indexes comprised of foreign securities to be broad-based where those indexes are more concentrated in one or a few securities? Is it appropriate to consider indexes comprised of *foreign securities* to be broad-based, considering the nature and size of the underlying securities markets, if they are comprised of less liquid securities than would be permitted in a broad-based index, pursuant to the statutory definition of narrow-based security index? If so, please indicate why this is appropriate.

Q10: If a rule is adopted providing an additional exclusion from the definition of narrow-based security index for an index underlying a futures contract traded on or subject to the rules of a foreign board of trade, how should the Commissions address any potential competitive disadvantage to U.S. securities exchanges, alternative trading systems, designated contract markets, or registered DTEFs that might result from an additional exclusion?

Q11: How can the Commissions craft rules that avoid potential uncertainty as to the characterization of an index on an ongoing basis? How can the Commissions best design criteria that remain sound over time and do not introduce unforeseeable uncertainties into the regulatory and trading framework?

Q12: As noted above, certain futures contracts on indexes of foreign securities that are currently traded on foreign boards of trade (and in some cases, domestic contract markets) have been permitted to be offered to U.S. customers under CFTC no-action relief granted under standards that required such indexes to represent a broad segment of the cash market; the SEC did not object to such relief. Some of these indexes may become narrow-based security indexes in the absence of the "grandfather" provision described above. Would it be appropriate for the Commissions to use their authority under Section 1a(25)(B)(vi) of the CEA and Section 3(a)(55)(C)(vi) to jointly establish rules excluding such indexes or exclude such indexes by order?

Q13: The SEC asks for comment on whether an additional exclusion from the definition of narrow-based security index for index futures contracts traded on or subject to the rules of foreign boards of trade would be consistent with the purposes of the federal securities laws.

III. Method for Determining Market Capitalization and Dollar Value of Average Daily Trading Volume

A. Determining Market Capitalization

As discussed above, an index is not a "narrow-based security index" under paragraph (B)(i) of Section 1a(25) of the CEA and paragraph (C)(i) of Section 3(a)(55) of the Exchange Act if, among other things, all of its component securities are among the Top 750 securities in terms of market capitalization. The Commissions are jointly proposing new rules under the CEA and the Exchange Act that would set forth the method for determining the market capitalization of a security.[29]

Paragraph (a)(1) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act would establish that market capitalization is the product of: (1) the number of outstanding shares of the security as reported in the most recent quarterly or annual report of the company [30]—*i.e.*, Form 10–Q, 10–K, 10–QSB, 10–KSB, or 20–F; [31] and (2) the average price of the security over the preceding 6 full calendar months. The definitions of "average price" of a security and "preceding 6 full calendar months" are discussed in Parts III.D. and III.F. below.[32]

A national securities exchange, designated contract market, registered DTEF, or foreign board of trade that trades or proposes to trade a futures contract on a security index may contract with an outside party to supply the information and data analysis required to determine market capitalization. For example, the market trading the futures contract may have a contract with a data vendor that supplies transaction information through an electronic medium.

[28] The Commissions note that currently some futures contracts on indexes traded on or subject to the rules of foreign boards of trade are excluded from the definition of narrow-based security index solely under the "grandfather" provisions in Section 1a(25)(B)(v) of the CEA and Section 3(a)(55)(C)(v) of the Exchange Act, which terminate on June 21, 2002.

[29] The proposed method would apply only to calculating market capitalization of a security to determine whether it is a Top 750 security. Because the CFMA directs the two Commissions to specify a method for calculating market capitalization solely for this purpose, the sponsor or compiler of an index otherwise categorized as a market capitalization-weighted index would not be required to use the proposed method to determine the relative weightings of the index's component securities. See Section 1a(25)(E)(ii) of the CEA and Section 3(a)(55)(F)(ii) of the Exchange Act.

[30] To rely on this exclusion from the definition of narrow-based security index, all the component securities of an index must be registered pursuant to Section 12 of the Exchange Act. *See* Section 1a(25)(B)(i)(III)(aa) of the CEA and Section 3(a)(55)(C)(i)(III)(aa) of the Exchange Act. Therefore, information regarding the number of outstanding shares will be contained in the company's annual and periodic reports.

[31] 17 CFR Sections 249.308a, 249.310, 249.308b, 249.310b, and 249.220f.

[32] *See infra* notes 40–41 and 48–49 and accompanying text.

However, in these circumstances, the market would be responsible for determining that the calculation by the outside party is consistent with the Commissions' proposed rules.

Q14: The Commissions solicit comment on their proposed method for calculating the market capitalization of a security. In particular, are there other methods of calculating the market capitalization of a security that would be better for market participants to use? If so, are these alternatives as appropriate as the method proposed by the Commissions?

Q15: The Commissions also solicit comment on whether relying on the information reported by issuers to the SEC is the best way to determine the number of outstanding shares of a security.

Q16: It is possible that a corporate event affecting the number of shares outstanding of a security, such as a stock split, stock dividend, stock buyback, or merger, can occur after the filing by its issuer of an annual or periodic report. This may be particularly relevant in the case of foreign issuers that file with the SEC just once a year. Should the proposed rule specifically address such events, and, if so, how? For example, should national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade be permitted to or be required to rely on updated information contained in any subsequent Form 8–K [33] filed by the issuer, or on more current information submitted to the primary market center for the underlying security? Are there reliable means other than SEC annual, periodic, and current reports to determine the current number of shares outstanding of a security in the event of a corporate event that results in a change in the number of outstanding shares?

Q17: The Commissions solicit comment on whether they should permit a national securities exchange, designated contract market, registered DTEF, or foreign board of trade to rely on an independent calculation of the market capitalization of a security by a third party. Should there be any conditions imposed when such a third party is used?

Q18: Do third parties, such as data vendors, calculate market capitalization using a different method than that proposed by the Commissions? If so, what are these methods? Should the Commissions incorporate these methods into the proposed rules? What would be the impact of any variation that may result if the same calculations are made based on slightly different information?

Q19: If national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade rely on the calculations of third parties, should those third parties be required to meet certain qualification standards? For example, should third parties be qualified only if data dissemination and calculation is part of their regular business? Should notification to the Commissions be required if a third party's calculations are used?

B. Determining Dollar Value of Average Daily Trading Volume

Dollar value of ADTV is used in two provisions of the definition of "narrow-based security index." [34] As required by the CFMA, the Commissions are proposing rules that would set forth the method for determining an individual security's dollar value of ADTV. Specifically, paragraph (a)(2) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act would establish that dollar value of ADTV is the product of: (1) the average daily trading volume of the security over the preceding 6 full calendar months; and (2) the average price of the security over the preceding 6 full calendar months.

The Commissions believe that multiplying a security's average daily trading volume over the preceding 6 full calendar months by its average price over the same period is a reasonable and simple method to use to determine the dollar value of its ADTV. The definitions of "average price" of a security and "preceding 6 full calendar months," are discussed in Parts III.D. and III.F. below.

A national securities exchange, designated contract market, registered DTEF, or foreign board of trade that trades or proposes to trade a futures contract on a security index may contract with a third party information provider to calculate, or provide the information necessary to calculate, the dollar value of ADTV. The market, however, would be responsible for determining that such calculation is consistent with the Commissions' proposed rules.

Q20: The Commissions solicit comments on their proposed method of calculating a security's dollar value of ADTV.

Q21: The Commissions are also interested in commenters' views on whether alternative ways to calculate this value would be more accurate or less burdensome to compute. For example, should the dollar value of ADTV of a security be calculated by multiplying the number of shares in each transaction by the price at which the transaction took place, then summing these values for each day in the six-month period, and finally dividing that sum by the number of trading days in the six-month period?

Q22: While the security of an issuer that underlies an American Depository Receipt ("ADR") must be registered under Section 12 of the Exchange Act, the ADR itself is deemed to be a separate security and is exempt from registration under Section 12. The Commissions solicit comments on whether, when determining the ADTV of a security, the ADTV of ADRs representing shares of such security should be included. The Commissions also solicit comment on whether, when determining average price of a security, the average price, on a proportional basis, of ADRs representing shares of such security should be considered.

Q23. For purposes of the exclusion from the definition of narrow-based security index in Section 1a(25)(B)(i) of the CEA and Section 3(a)(55)(C)(i) of the Exchange Act, should an ADR be considered registered pursuant to Section 12 of the Exchange Act if its underlying security is so registered?

Q24: The Commissions solicit comment on whether they should permit a national securities exchange, designated contract market, registered DTEF, or foreign board of trade to rely on an independent calculation of the dollar value of ADTV of a security by a third party. Should there be any conditions imposed when such a third party is used?

Q25: Do third parties, such as data vendors, calculate dollar value of ADTV using a different method than that proposed by the Commissions? If so, what are those methods? Should the Commissions incorporate these methods into the proposed rules? What would be the impact of any variation that may result if the same calculations are made based on slightly different information?

Q26: If national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade rely on the calculations of third parties, should those third parties be required to meet certain qualification standards? For example, should third parties be qualified only if data dissemination and calculation is part of their regular business? Should notification to the Commissions be required if a third party's calculations are used?

[33] 17 CFR 249.308.

[34] Section 1a(25)(A)(iv) and (B)(i) of the CEA and Section 3(a)(55)(B)(iv) and (C)(i) of the Exchange Act.

C. Determining Average Daily Trading Volume

Paragraph (b)(1) of Proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act would define the ADTV of a security as the total number of shares of such security traded on the trading days of the principal market for the security [35] during the preceding 6 full calendar months divided by the number of trading days on the principal market for the security during the same period.[36] The inclusion of foreign trading data is discussed in Part III.E. below.[37]

Q27: The Commissions request comment on the proposed definition of ADTV.

Are there other, more appropriate ways to determine ADTV?

D. Determining Average Price

1. Basic Definition

The proposed methods for determining market capitalization and dollar value of ADTV require assessing the average price of a security over the preceding 6 full calendar month period. Paragraph (b)(2)(i) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act would establish a method that takes into account the number of shares in each transaction in calculating the average price of a security. This method, often termed "volume-weighted average price," would require that there first be established a value for each transaction, by multiplying the price per share in U.S. dollars of each transaction by the number of shares traded in that transaction. Then, the sum of these values for all the transactions in the security during the 6-month period is divided by the total number of shares traded during that period. The inclusion of foreign trading data is discussed in Part III.E. below.[38]

Q28: The Commissions request commenters' views on the proposed method for calculating a security's "average price." Are there other methods that would be more appropriate? For example, another way to determine "average price" is to use the closing price of the security for each day of the preceding 6 full calendar months averaged over that same 6-month period. Should the rules permit the use of the average closing price of a security to calculate dollar value of ADTV instead of requiring an overall average price based on transactions throughout the day?

Q29: Do third parties, such as data vendors, calculate the average price of a security using a different method than that proposed by the Commissions? If so, what are those methods? Should the Commissions incorporate these methods into the proposed rules?

Q30: If national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade rely on the calculations of third parties, should those third parties be required to meet certain qualification standards? For example, should third parties be qualified only if data dissemination and calculation is part of their regular business? Should notification to the Commissions be required if a third party's calculations are used?

2. Exception Permitting Use of Non-Volume-Weighted Average Price for Certain Calculations

Paragraph (b)(2)(ii) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act would permit the use of a non-volume-weighted average price under certain conditions. Specifically, for purposes of determining whether the dollar value of ADTV of the lowest weighted 25% of a security index exceeds the statutory threshold [39] of $50 million (or $30 million for indexes with 15 or more component securities), national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade would be permitted to use an average price for each component security defined as the average price level at which transactions in the security took place over the six-month period, irrespective of the number of shares traded in each transaction.[40]

Such non-volume-weighted average price may be easier to calculate than a volume-weighted average price, and the Commissions preliminarily believe that it would be a reasonable alternative for purposes of this one aspect of the statutory definition of narrow-based security index.[41] However, because the method does not take into account the volume of shares traded at each price, and thus yields only an approximation of a security's true average price, the Commissions are proposing to permit its use subject to a limitation.

Sometimes, the dollar value of ADTV of the lowest weighted 25% of an index, when based on the non-volume-weighted average price of each security comprising it, may exceed the statutory threshold, while the *real* dollar value of its ADTV—based on the more exact, volume-weighted figures for average price of each security—falls short. Accordingly, paragraphs (a)(2)(iii) and (b)(2)(ii) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act would stipulate that this method may be used only when the dollar value of ADTV of the lowest weighted 25% of an index based on this method equals or exceeds $55 million (or $33 million for indexes with 15 or more component securities)—*i.e.*, it exceeds the statutory thresholds of $50 million (or $30 million for indexes with 15 or more component securities) by at least 10%. If it does not, the average price of securities must be calculated using the volume-weighted average price method in paragraph (a)(2)(i) of the proposed rules. The Commissions preliminarily believe that when the dollar value of ADTV of a security index exceeds the $50 million threshold (or the $30 million threshold, as the case may be) by 10% when using the non-volume weighted price, the security index would most likely exceed those thresholds if the volume-weighted average price test was used.

Q31: The Commissions request comment on this proposed alternative method for calculating average price for purposes of determining whether the dollar value of ADTV of the lowest weighted 25% of an index equals or exceeds $55 million (or $33 million, for indexes with 15 or more component securities). Is the 10% threshold appropriate? Should it be higher or lower?

E. Component Securities of an Index That Trade in Foreign Markets

Security indexes may contain a number of securities that are registered under Section 12 of the Exchange Act and traded in the United States and that may also trade in markets outside the United States.

Paragraphs (b)(1) and (b)(2)(i) and (ii) of proposed Rule 41.11 under the CEA

[35] The principal market for a security is proposed to mean the single market with the largest aggregate reported trading volume for the security during the preceding 6 full calendar months. *See* Paragraph (b)(7) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act.

[36] *See* below in Part III.E. regarding the proposed limitation of trading days to "trading days of the principal market for the security."

[37] *See infra* notes 42–47 and accompanying text.

[38] *Id.*

[39] *See* Section 1a(25)(A)(iv) of the CEA and Section 3(a)(55)(B)(iv) of the Exchange Act.

[40] *Id.*

[41] The Commissions do not believe it appropriate to permit the use of an alternative method to true, volume-weighted average price for purposes of the other statutory tests that require the use of average price. If a choice of methods was permitted for these other tests—which require determining whether a security is one of the Top 750 and Top 675 securities in terms of market capitalization and dollar value of ADTV—different markets might arrive at different lists of the Top 750 and Top 675 securities. As a result, the same index could be deemed a narrow-based security index in one market and a broad-based index in another.

and proposed Rule 3a55–1 under the Exchange Act would permit data from non-U.S. markets to be included in determining the average daily trading volume and average price of a security, provided that the information has been reported to a foreign financial regulatory authority [42] in the jurisdiction where the security is traded. The Commissions preliminarily believe that it is reasonable to allow markets to include such non-U.S. trading volume in determining the total dollar value of a security's ADTV.[43] To the extent that trades that are executed on non-U.S. markets are included in the calculation of a security's ADTV, the proposed rules would also require those same trades to be included in calculating the security's average price.[44]

In addition, paragraph (b)(2)(ii) and (iii) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act would allow price information from non-U.S. markets to be figured into the average price only when the price for each transaction included in that calculation is translated into U.S. dollars at the trading date's noon buying rate in New York City for cable transfers in foreign currencies as certified for customs purposes by the Federal Reserve Bank of New York ("noon buying rate").[45]

Finally, the Commissions recognize that because the trading days in various countries do not necessarily conform to each other, a uniform standard would be appropriate. To assure consistency, the proposed rules would permit price and trading volume data for each security to be included only for the trading days of the "principal market for the security." [46] "Principal market" for a security is defined as the single market with the largest aggregate reported trading volume for the security during the preceding 6 full calendar months.[47]

Q32: Do the proposed rules adequately allow foreign trading volume to be included? Is information regarding non-U.S. trading volume for the preceding 6 full calendar months readily available?

Q33: The Commissions solicit comment specifically on the proposed requirement that the exchange rate used be the noon buying rate. Are rates readily available for all currencies in which securities may trade worldwide? How should the rule account for the possibility that trades occur on days when the noon buying rate is unavailable? For example, should the rule require that the prior day's rate, or an average rate over a period of time, be used? Is another exchange rate method preferable to the noon buying rate, and if so, which exchange rate method?

Q34: The Commissions also solicit comment specifically on the proposed limitation on the use of market data to data for the trading days of the principal market of the security. Is there an alternative way to take into account the fact that trading calendars in various countries are not always synchronous? For example, one alternative way is to calculate the dollar value of ADTV over the preceding 6 full calendar months separately for each securities market where the security trades, based on that market's own trading calendar (and taking into account the appropriate exchange rate), and then to sum the dollar value of ADTV over the preceding 6 full calendar months for all the securities markets. What would be the advantages and disadvantages of such an approach? Commenters are asked to provide specific examples of how to determine both ADTV and average price if data from various securities markets for all trading days is to be included.

Q35: Commenters are requested to provide their views regarding whether any other issues relating to foreign trading data need to be addressed.

F. Determining "the Preceding 6 Full Calendar Months"

The CEA and Exchange Act specify that the dollar value of ADTV and market capitalization shall be calculated as of the "preceding 6 full calendar months." [48] Paragraph (b)(5) of proposed Rules 41.11 under the CEA and 3a55–1 under the Exchange Act would define the preceding 6 full calendar months, with respect to a particular day, as the period of time beginning on the same day of the month 6 months before such day, and ending on the day prior to such day. For example, for August 16 of a particular year, the preceding 6 full calendar months means the period beginning February 16 and ending August 15. Similarly, for March 8 of a particular year, the 6-month period begins on September 8 of the previous year and ends on March 7.

The Commissions believe that this "rolling" 6-month approach is appropriate, particularly in light of issues that would arise if 6 full calendar months were measured from the first to the last day of each month on the calendar. If that approach were used, it would be difficult to apply the CEA and Exchange Act provisions excepting a security index from the definition of narrow-based security index if, among other things, it is narrow-based for 45 or fewer business days in a three-month period.[49]

For example, if a national securities exchange, designated contract market, registered DTEF, or foreign board of trade needed to assess the dollar value of ADTV for the six months preceding July 20, and the measuring period for which the dollar value of ADTV for the component securities of an index is determined as the 6-month period from January 1 through June 30, the dollar value of ADTV would be static for each day in July. In this example, the calculation would not take into account any transactions that occurred during July. Thus, if this approach were used to define the 6-month period, the Commissions believe it would leave meaningless the statutes' provisions concerning the number of days within a three-month period that a future on an index that is narrow-based may continue to trade under the regulatory framework for futures on indexes that are not narrow-based.

Q36: Is there an approach other than the one proposed to determine the preceding 6 full calendar months? How would such an alternative work in applying the provision that excludes a non-narrow based index future that becomes narrow-based from the definition of a narrow-based security index future if it is narrow-based for 45 or fewer days in a three month period?

G. The Lowest Weighted 25% of an Index

As discussed in Part II.A. above, one of the factors that may render a security index narrow-based is if the aggregate dollar value of the ADTV of the lowest

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[42] "Foreign financial regulatory authority" is defined in the paragraph (b)(3) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act to have the same meaning as in Section 3(a)(52) of the Exchange Act.

[43] The use of foreign trading data could also affect average price for purposes of determining market capitalization, although the Commissions do not believe that the impact would be significant.

[44] *See* paragraph (b)(2)(iv) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act.

[45] *See also* 17 CFR 229.301 (Instructions to Item 301, No. 7), which similarly requires registrants to use the noon buying rate for purposes of determining the rate of exchange for selected financial data included in registration statements under the Securities Act and periodic reports under the Exchange Act.

[46] *See* paragraphs (b)(1) and (b)(2)(i) and (ii) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act.

[47] Paragraph (b)(7) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act.

[48] Section 1a(25)(E)(i) of the CEA and Section 3(a)(55)(F)(i) of the Exchange Act.

[49] Sections 1a(25)(B)(iii) and (D) of the CEA and Sections 3(a)(55)(C)(iii) and (E) of the Exchange Act.

weighted 25% of its component securities is less than $50 million (or $30 million for an index of 15 component securities or more).[50]

The proposed rules would establish that the "lowest weighted 25% of an index's weighting" is comprised of those component securities that have the lowest weightings in the index such that, when their weightings are summed, they equal no more than 25% of the weight of the index.[51] To identify these securities, the following method would apply: (1) all component securities in an index would be ranked from the lowest to highest weighting; and (2) beginning with the lowest weighted security and proceeding to the next lowest weighted security and continuing in this manner, the weightings would be added to each other until they reach the sum that would come closest to, or equal 25%, but would not exceed 25%. Those securities would then comprise the lowest weighted 25% of the index.

In addition, the calculation of ADTV and its dollar value for any given moment in time must take into account trading volume and price data for the relevant securities over the preceding 6 months of trading. Yet the securities that comprise the lowest weighted 25% of an index may vary from day to day. The proposed rules establish how the ADTV of the lowest weighted 25% of an index and its dollar value is to be determined.

Specifically, the proposed rules would establish that, for any particular day, the ADTV of the lowest weighted 25% of the index is calculated based on the price and trading data over the preceding 6 months for the securities that comprise the lowest weighted 25% of the index *for that day*. The Commissions believe that this method of taking a "snapshot" of the current lowest weighted 25% and then looking retroactively to determine the aggregate dollar value of the ADTV over the preceding 6 months of the securities in the snapshot is a reasonable approach for the purposes of the statute and would be considerably less burdensome than the alternative of requiring a calculation of the data for the lowest weighted 25% of the index for each day of the preceding 6 full calendar months.

Q37: The Commissions request comment concerning whether the method for identifying the securities comprising the lowest weighted 25% of an index's weighting is practicable. Is there any other approach the Commissions should consider?

IV. Transitional Exemption for Broad-Based Index Futures

As discussed above, the statutory definition of narrow-based security index provides a temporary exclusion under certain conditions for a futures contract trading on an index that was not narrow-based and subsequently became narrow-based for no more than 45 business days over three consecutive calendar months. If the index becomes narrow-based for more than 45 days over three consecutive calendar months, the statute then provides a grace period of three months during which the index is excluded from the definition of narrow-based security index.[52]

The CFTC is proposing to adopt Rule 41.14 under the CEA to provide a similar temporary exclusion and transitional grace period for a security futures product that was trading on a narrow-based security index that becomes a broad-based index. Paragraph (a) of proposed Rule 41.14 under the CEA would establish a temporary exclusion for a security future that began trading on an index that was narrow-based and subsequently became broad-based for no more than 45 days in a three-month calendar period. In such case the index would continue to be considered narrow-based. Paragraph (b) of proposed Rule 41.14 would provide a transition period for an index that was a narrow-based security index and became broad-based for more than 45 days over three consecutive calendar months, permitting it to continue to be a narrow-based security index for the three following calendar months.[53]

To minimize disruption, paragraph (c) of the proposed CEA rule also provides that a national securities exchange may, following the transition period, continue to trade only in those months in which the contract had open interest on the date the transition period ended and shall limit trading to liquidating positions. The Commissions note that a national securities exchange that intends to trade an index following the end of the transition period, other than as specified in paragraph (b), would be required to take such action as may be necessary to trade the index as a broad-based index subject to the sole jurisdiction of the CFTC.[54]

V. Request for Comments

The Commissions solicit comments on all aspects of proposed Rules 41.1 and 41.2 and Rules 41.10 through 41.14 under the CEA and proposed Rules 3a55–1 through 3a55–3 under the Exchange Act. In particular, the Commissions seek comments on whether the proposed methods for determining the market capitalization and dollar value of ADTV are appropriate, or whether other calculation methodologies would be more suitable. In suggesting other methodologies, commenters should provide specific examples. Commenters are welcome to offer their views on any other matter raised by the proposed rules.

VI. Paperwork Reduction Act

CFTC

A. Summary of Collection of Information

The Paperwork Reduction Act ("PRA") of 1995[55] imposes certain requirements on federal agencies (including the CFTC) in connection with their conducting or sponsoring any collection of information as defined by the PRA.

Futures contracts on security indexes that meet the statutory definition of narrow-based security index are jointly regulated by the SEC and CFTC. Futures contracts on indexes that do not meet the statutory definition of narrow-based remain under the sole jurisdiction of the CFTC. To implement the definition of a narrow-based security index, the Commissions are required to jointly specify by rule or regulation the method for determining market capitalization and dollar value of ADTV of securities comprising an index.

In addition, the CFMA amended the CEA by requiring national securities exchanges that deal in security futures products to become designated contract markets solely for the purpose of trading security futures products ("notice-registered contract markets").[56]

A designated contract market or registered DTEF that trades or proposes to trade a futures contract on a security index must ascertain whether or not the security index falls within the definition of narrow-based security index to determine the jurisdiction under which trading in such contract falls, and whether the market in which it trades is

[50] Section 1a(25)(A)(iv) of the CEA and Section 3(a)(55)(B)(iv) of the Exchange Act.

[51] Paragraph (b)(4) of proposed Rule 41.11 under the CEA and proposed Rule 3a55–1 under the Exchange Act. Paragraph (b)(9) of the proposed rules, respectively, would clarify that "weighting" of a component security of an index means the percentage of the index's value represented or accounted for by that component security.

[52] *See supra*, Part II.B.2.

[53] Proposed Rule 41.1(a) under the CEA would define "broad-based security index" as "a group or index of securities that does not constitute a narrow-based security index."

[54] *See* Section 2(a)(1)(C)(ii) of the CEA.

[55] 44 U.S.C. 3504(h).

[56] *See* Sections 2(a)(1)(D)(ii) and 5f of the CEA.

in compliance with the relevant securities and commodities laws. This will entail, among other things, a collection of the information necessary to make the requisite determination under the provisions of the CEA and the Exchange Act regarding the market capitalization and dollar value of ADTV of individual securities or groups of securities comprising the index.

The proposed rules would provide the method by which a market trading a futures contract on a security index must determine the market capitalization and dollar value of ADTV of securities comprising the index in order to assure that it is in compliance with the applicable requirements of the CEA and the Exchange Act.

Proposed Rule 41.2 requires designated contract markets (including notice-registered contract markets) and registered DTEFs that trade a security index or security futures product to maintain, in accordance with the requirements of Rule 1.31, books and records of all activities relating to the trading of such products. This proposed rule restates the existing recordkeeping requirements of the CEA.[57] The proposed rule also specifies that, in order to comply with these recordkeeping requirements, designated contract markets and registered DTEFs that trade futures contracts on security indexes and security futures products would be required to preserve records of any calculations used to determine whether an index is broad-based or narrow-based.

B. Proposed Use of Information

Designated contract markets and registered DTEFs that wish to trade futures contracts on a security index would use the methods specified in the proposed rules to determine market capitalization and dollar value of ADTV of a security or a group of securities comprising the index. These determinations would enable these designated contract markets and registered DTEFs to ascertain whether a security index on which they propose to trade or are trading a futures contract is "narrow-based," and thus subject to the joint jurisdiction of the SEC and the CFTC, or is "broad-based," and thus subject to the exclusive jurisdiction of the CFTC.

Any market that trades a futures contract on a broad-based or narrow-based security index would be required to retain records of its determinations as required by the recordkeeping requirements of the proposed rules.

[57] *See* Sections 5(d)(17) and 5a(d)(8) of the CEA.

C. Respondents

The only entities required under the proposed rules to retain such records would be designated contract markets (including notice-registered contract markets) and registered DTEFs that trade futures contracts on security indexes. The CFTC estimates that potentially 11 designated contract markets (of which four would be notice-registered) would be required by the proposed rules to comply with these recordkeeping requirements. No registered DTEFs are currently trading futures products. The CFTC requests comment on whether any additional entities would be required to keep these records.

D. Total Annual Reporting and Recordkeeping Burden

1. Capital Costs

Designated contract markets (including notice-registered contract markets) and registered DTEFs that trade futures contracts on security indexes would be required to keep on file all records concerning their determinations that such indexes were either broad-based or narrow-based for a period of five years, of which the first two years of such records would be required to be readily accessible. Because these markets are already required to have recordkeeping systems in place, the CFTC preliminarily estimates that any additional costs of retaining and storing the collected information discussed above would be nominal. The CFTC is soliciting comment on this finding.

2. Burden Hours

Designated contract markets and registered DTEFs that trade futures contracts on security indexes would be required to retain and store the determinations of market capitalization and dollar value of ADTV obtained by applying the methods provided by the proposed rules for five years; of which the first two years of such records would be required to be readily accessible. The CFTC estimates that it would take the 11 respondents one hour each to retain any documents made or received by it in determining whether an index is narrow-based or broad-based. The total burden in complying with proposed rule 41.2 would be 11 hours. The CFTC is soliciting comment on this estimate.

E. General Information About the Collection of Information

The collection of information required by the proposed rules is mandatory and would need to be retained by designated contract markets and registered DTEFs for five years, and for the first two years the information must be readily accessible. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

F. Request for Comment

The CFTC requests comments: (1) on whether the proposed collection of information is necessary for the proposed performance of the functions of the agency, including whether the information shall have practical utility; (2) to evaluate the accuracy of the CFTC's estimate of the burden of the proposed collection of information; (3) on whether the proposed collection of information will enhance the quality, utility, and clarity of the information to be collected; and (4) whether the proposed collection of information will minimize the burden of collection on those who are to respond, including through the use of electronic or automated collection techniques or other forms of information technology.

Persons wishing to submit comments on the collection of information requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503, Attention: Desk Officer for the CFTC, and to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581, Attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418–5521 or by e-mail to secretary@cftc.gov. Reference should be made to Narrow-Based Security Indexes.

The CFTC has submitted the proposed collection of information to OMB for approval. Members of the public should direct any general comments to both the CFTC and OMB within 30 days. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication in the **Federal Register**, so a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this release. Requests for the materials submitted to OMB by the CFTC with regard to this collection of information are available from the CFTC Clearance Officer, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581, Telephone: (202) 418–5160.

SEC

Certain provisions of the proposed rules contain "collection of information" requirements within the

meaning of the Paperwork Reduction Act of 1995 ("PRA"),[58] and the SEC has submitted them to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The SEC is proposing to amend the collection of information entitled "Rule 17a–1: Recordkeeping rule for national securities exchanges, national securities associations, registered clearing agencies, and the Municipal Securities Rulemaking Board" (OMB Control Number 3235–0208). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

A. Summary of Collection of Information

As noted above, the CFMA lifted the ban on trading single stock and narrow-based stock index futures and established a framework for the joint regulation of these products by the SEC and the CFTC. In addition, the CFMA amended the Exchange Act and CEA by adding a definition of "narrow-based security index," which establishes an objective test of whether a security index is narrow-based.[59] Futures contracts on security indexes that meet the statutory definition of narrow-based security index are jointly regulated by the SEC and the CFTC. Futures contracts on indexes that do not meet the statutory definition of narrow-based security index remain under the sole jurisdiction of the CFTC. To implement the definition of a narrow-based security index, the Commissions are required to specify jointly by rule or regulation the method for determining market capitalization and dollar value of ADTV of securities comprising an index.[60]

In addition, the CFMA amended the Exchange Act by adding new Section 6(g), which would require an exchange that is a designated contract market or a registered DTEF that lists or trades security futures products to register as a national securities exchange ("notice-registered national securities exchange") solely for the purpose of trading security futures products.[61]

A national securities exchange, designated contract market, registered DTEF, or foreign board of trade that trades or proposes to trade a futures contract on a security index must ascertain whether or not the security index falls within the definition of narrow-based security index to determine the jurisdiction under which trading in such contract falls, and whether the market in which it trades is in compliance with the relevant securities and commodities laws. This will entail, among other things, a collection of the information necessary to make the requisite determination under the provisions of the Exchange Act and the CEA regarding the market capitalization and dollar value of ADTV of individual securities or groups of securities comprising the index.

Proposed Rule 3a55–1 under the Exchange Act specifies the method to determine market capitalization and dollar value of ADTV of index securities.[62] Thus, the proposed rule would provide the method by which a market trading a futures contract on a security index must determine the market capitalization and dollar value of ADTV of index securities in order to assure that it is in compliance with the applicable requirements of the Exchange Act and the CEA.

Rule 17a–1 under the Exchange Act,[63] among other things, requires national securities exchanges, which by definition include entities registered under the new notice registration provisions of the Exchange Act,[64] to retain copies of all documents, including all correspondence, memoranda, papers, books, notices, accounts, and other records made or received by them in the course of their business and in the conduct of their self-regulatory activities for a period of not less than five years, in the first two years in an easily accessible place. Any exchange that lists or trades a futures contract on a narrow-based security index product must be registered with the SEC pursuant to Section 6 of the Exchange Act and, as a registered national securities exchange, will be subject to the recordkeeping requirements of Rule 17a–1. Rule 17a–1 thus will apply to any notice-registered national securities exchange. Accordingly, in order to comply with these recordkeeping requirements, a national securities exchange, including a notice-registered national securities exchange, that lists or trades futures contracts on narrow-based security indexes would be required to preserve records of any calculations used to determine whether an index is narrow-based.[65]

B. Proposed Use of Information

National securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade would use the methods specified in the proposed rules to determine market capitalization and dollar value of ADTV of a security or a group of securities comprising the index. These determinations would enable these national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade to ascertain whether a security index on which they propose to trade or are trading a futures contract is "narrow-based," and thus is subject to the joint jurisdiction of the SEC and CFTC. If the market determined that the index is not narrow-based under the proposed rules' methodology, the futures contract would be solely under the CFTC's jurisdiction.

The SEC will use the collected information to monitor the accuracy of the determinations made by national securities exchanges, including notice-registered national securities exchanges, as to whether a security index is narrow-based.

Any national securities exchange, including any notice-registered national securities exchange, that trades a futures contract on a narrow-based security index would be required to retain records of its determinations pursuant to the recordkeeping requirements of Rule 17a–1.

C. Respondents

The only entities required under Rule 17a–1 under the Exchange Act to retain such records would be national securities exchanges (including designated contract markets and registered DTEFs registered as national securities exchanges pursuant to Section 6(g) of the Exchange Act) that trade futures contracts on narrow-based security indexes. The SEC estimates that potentially 4 national securities exchanges and 7 notice-registered national securities exchanges (designated contract markets registered pursuant to Section 6(g) of the Exchange

[58] 44 U.S.C. 3501 *et seq.*

[59] *See* Section 1a(25)(A) of the CEA and Section 3(a)(55)(B) of the Exchange Act.

[60] Section 3(a)(55)(F) of the Exchange Act and Section 1a (25)(E) of the CEA.

[61] See Section 6(g) of the Exchange Act, 15 U.S.C. 78f(g).

[62] Proposed Rule 41.11 under the CEA parallels proposed Rule 3a55–1.

[63] 17 CFR 240.17a–1.

[64] *See* Section 6 of the Exchange Act, 15 U.S.C. 78f.

[65] This PRA analysis does not include any collection of information and recordkeeping requirements that would apply to designated contract markets, registered DTEFs, and foreign boards of trade that trade futures contracts on security indexes that are not narrow-based because the trading of these products is not subject to the SEC's jurisdiction. Therefore, such information and recordkeeping would not be subject to Rule 17a–1 under the Exchange Act.

Act)[66] would be required by the Exchange Act and the rules thereunder to comply with these recordkeeping requirements. No registered DTEFs are currently trading futures products. The SEC requests comment on whether any additional entities would be required to keep these records.

D. Total Annual Reporting and Recordkeeping Burden

1. Capital Costs

Rule 17a–1 under the Exchange Act would require national securities exchanges, including any notice-registered national securities exchanges, that trade futures contracts on narrow-based security indexes to keep on file for a period of no less than five years, the first two years in an easily accessible place, all records concerning their determinations that such indexes were narrow-based.[67] Because national securities exchanges, including notice-registered national securities exchanges that have been designated contract markets with the CFTC, currently are required to have recordkeeping systems in place,[68] the SEC preliminarily estimates that any additional costs of retaining and storing the collected information discussed above would be nominal. The SEC is soliciting comment on this estimation.

2. Burden Hours

National securities exchanges, including notice-registered national securities exchanges, that trade futures contacts on security indexes would be required to comply with the recordkeeping requirements under Rule 17a–1 under the Exchange Act.[69] National securities exchanges, including notice-registered national securities exchanges, would be required to retain and store any documents related to determinations made using the definitions in proposed Exchange Act Rule 3a55–1 for no less than five years, the first two years in an easily accessible place. The current burden estimate for Rule 17a–1, as of July 20, 1998, is 50 hours per year for each exchange.[70] The SEC estimates that it would take each of the 11 respondents one hour annually to retain any documents made or received by it in determining whether an index is a narrow-based security index. The total burden in complying with Rule 17a–1 for each national securities exchange, including notice registered national securities exchanges, under proposed Rule 3a55–1 would be 11 hours. The SEC is soliciting comment on this estimate.

E. General Information About the Collection of Information

The collection of information required by the proposed rules is mandatory and would need to be retained by the national securities exchanges and notice-registered national securities exchanges for no less than five years, and for the first two years the information must be in an easily accessible place, as required under Exchange Act Rule 17a–1. Under Rule 17a–1, the information collected pursuant to the proposed rules would be retained by the national securities exchange or the notice-registered national securities exchange that is relying on the proposed rules. The SEC would obtain access to the information upon request. Any collection of information received by the SEC would not be made public.

F. Request for Comment

Pursuant to 44 U.S.C. 3506(c)(2)(B), the SEC solicits comments to: (1) evaluate whether the proposed collection of information is necessary for the proposed performance of the functions of the agency, including whether the information shall have practical utility; (2) evaluate the accuracy of the SEC's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and the clarity of the information to be collected; and (4) minimize the burden of collection on those who are to respond, including through the use of electronic or automated collection techniques or other forms of information technology.

Persons wishing to submit comments on the collection of information requirements should direct them to the following persons: (1) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; and (2) Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609, with reference to File No. S7–11–01.

The SEC has submitted the proposed collection of information to OMB for approval. Members of the public should direct any general comments to both the SEC and OMB within 30 days. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication in the **Federal Register**, so a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this release. Requests for the materials submitted to OMB by the SEC with regard to this collection of information should be in writing, refer to File No. S7–11–01, and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, 450 Fifth Street, N.W., Washington, D.C. 20549–0609.

VII. Costs and Benefits of the Proposed Rules

CFTC

Section 15(a) of the CEA requires the CFTC to consider the costs and benefits of its action before issuing a new regulation.[71] The CFTC understands that, by its terms, Section 15(a) does not require the CFTC to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Nor does it require that each proposed rule be analyzed in isolation when that rule is a component of a larger package of rules or rule revisions. Rather, Section 15(a) simply requires the CFTC to "consider the costs and benefits" of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the CFTC could in its discretion give greater weight to any one of the five enumerated areas of concern and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The proposed rules constitute a package of related rule provisions. The rules provide guidance to trading facilities in order to facilitate compliance with governing laws. Furthermore, the rules provide alternatives that may reduce the costs of compliance.

[66] Notice-registered national securities exchanges are those entities that register in accordance with Section 6(g) of the Exchange Act and proposed Rule 6a–4 under the Exchange Act by filing a proposed Form 1–N. *See* Securities Exchange Act Release No. 44279 (May 8, 2001).

[67] 17 CFR 240.17a–1.

[68] *See* Rule 17a–1 under the Exchange Act, 17 CFR 240.17a–1, and Sections 5(d)(17) and 5a(d)(8) of the CEA.

[69] 17 CFR 240.17a–1.

[70] *See* 63 FR 38865 (July 20, 1998) (SEC File No. 270–244, OMB Control No. 3235–0208) (seeking an extension of OMB approval of Rule17a–1 under the Exchange Act).

[71] Section 15(a) of the CEA, 7 U.S.C. 19(a).

The CFTC is considering the costs and benefits of the proposed rules as a totality, in light of the specific areas of concern identified in Section 15(a). The proposed rules should have no effect, from the standpoint of imposing costs or creating benefits, on the financial integrity or price discovery function of the futures and options markets or on the risk management practices of trading facilities or others. The proposed rules also should have no material effect on the protection of market participants and the public and should not impact the efficiency and competition of the markets.

Accordingly, the CFTC has determined to propose the rules discussed above. The CFTC invites public comment on the application of the cost-benefit provision of Section 15(a) of the CEA in regard to the proposed rules. Commenters also are invited to submit any data that they may have quantifying the costs and benefits of the proposed rules.

SEC

The SEC is proposing new rules, Rules 3a55–1 through 3a55–3, under the Exchange Act. The proposed rules are in response to the mandate of the CFMA, which, among other things, requires the CFTC and SEC to jointly specify by rule or regulation the method to be used to determine "market capitalization" and "dollar value of average daily trading volume" with respect to implementing the new provisions of the CEA and Exchange Act regarding contracts for future delivery on security indexes.

The CFMA lifted the ban on, and will permit the trading of, single stock futures and futures on narrow-based security indexes. In addition to repealing the prohibition on certain types of security index futures, the CFMA amended the CEA and Exchange Act by adding the definition of "narrow-based security index." This definition establishes an objective test of whether a security index is narrow-based.[72] Futures contracts on security indexes that are narrow-based security indexes will be jointly regulated by the CFTC and the SEC under the framework established by the CFMA. Futures contracts on indexes that are not narrow-based security indexes, on the other hand, will be under the sole jurisdiction of the CFTC, and therefore only a designated contract market, registered derivatives transaction execution facility ("DTEF"), or foreign board of trade may trade these products.

[72] *See* Section 1a(25) of the CEA and Section 3(a)(55) of the Exchange Act.

Proposed Rule 3a55–1 under the Exchange Act would provide methods of calculating market capitalization and dollar value of average daily trading volume ("ADTV") for purposes of determining whether a security index is narrow-based within the meaning of the Exchange Act. Proposed Rule 3a55–2 under the Exchange Act would exempt from the definition of narrow-based security index those security indexes on which futures contracts have traded on a designated contract market, a registered DTEF, or foreign board of trade for fewer than 30 days, provided they would not have been narrow-based security indexes for an uninterrupted 6 full calendar months prior to the first day of trading. Proposed Rule 3a55–3 under the Exchange Act would establish that when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, that index shall not be considered a narrow-based security index if it would not be a narrow-based security index pursuant to the statutory definition of a narrow-based index or the exclusions from that definition. These proposed rules would provide methods of calculation and guidance for national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade in determining whether or not a security index is narrow-based under the Exchange Act.

The SEC has identified below certain costs and benefits relating to proposed Rules 3a55–1 through 3a55–3 under the Exchange Act. The SEC requests comments on all aspects of this cost-benefit analysis, including identification of any additional costs and/or benefits of the proposed rules. The SEC encourages commenters to identify and supply any relevant data, analysis and estimates concerning the costs and/or benefits of the proposed rules.

A. Benefits

The benefits of proposed Rules 3a55–1 through 3a55–3 under the Exchange Act are related to the benefits that will accrue as a result of the enactment of the CFMA. By repealing the ban on single stock futures and futures on narrow-based security indexes, the CFMA will enable a greater variety of financial products to be traded that potentially could facilitate price discovery and the ability to hedge. Investors will benefit by having a wider choice of financial products to buy and sell, and markets and market participants will benefit by having the ability to trade these products. The benefits are likely to relate to the volume of trading in these new instruments. Because security futures are a new product, however, the SEC is unable to quantify these benefits and therefore requests comments, data, and estimates.

Furthermore, the CFMA clarifies the jurisdiction of the CFTC and the SEC over futures contracts on security indexes, and alleviates the regulatory burden of dual CFTC and SEC jurisdiction where it is appropriate to do so. Under the new provisions of the CEA and Exchange Act, the CFTC and SEC will jointly regulate futures contracts on narrow-based security indexes. The trading of futures contracts on broad-based security indexes will be under the sole jurisdiction of the CFTC and may be traded only on designated contract markets and by and through intermediaries registered with the CFTC. The CFMA provides objective criteria for determining whether or not a security index is narrow-based, and the proposed rules would provide instruction in applying those criteria. The SEC requests comments, data, and estimates regarding the increased regulatory certainty that will result from the definition of narrow-based security index contained in the Exchange Act.

Proposed Rule 3a55–1 under the Exchange Act would provide methodologies for determining market capitalization and the dollar value of ADTV for purposes of ascertaining whether or not a security index is narrow-based as defined in the CFMA. The proposed rules would provide the benefit of clear, objective standards for determining both market capitalization and the dollar value of ADTV. Market capitalization would, under the proposed rules, be computed as the product of the average price of a component security and the number of outstanding shares of that security. The dollar value of ADTV would, under the proposed rules, be computed as the product of the average price of a component security and the ADTV of that security.

To implement these calculations, the proposed rules would define "average daily trading volume" and, as more fully described below, a method to calculate "average price." In addition, the proposed rules would clarify how to calculate the dollar value of ADTV for the lowest weighted 25% of an index. The SEC requests specific comments regarding the benefits and efficiency of the proposed methods for determining market capitalization and the dollar value of ADTV, and invites comments regarding the benefits of any alternative approaches.

Proposed Rule 3a55–1 under the Exchange Act would provide the following objective definition for

"average price" for purposes of calculating market capitalization and dollar value of ADTV: The total dollar value of all transactions in a component security on the trading days of the principal market for the security during the preceding 6 full calendar months divided by the total number of shares traded in such transactions for the preceding 6 full calendar months, where the dollar value for each transaction is the price per share in U.S. dollars of that transaction multiplied by the number of shares in such transaction ("volume-weighted average price").

For purposes of determining whether the dollar value of the ADTV of the lowest weighted 25% of an index reaches the statutory threshold of $50 million (or $30 million), the proposed rules would also permit a national securities exchange, designated contract market, registered DTEF, or foreign board of trade to elect a different method of calculation of average price, under certain conditions,[73] which may be more cost-efficient for it to use. Average price according to this method would be the sum of the price per share in U.S. dollars for each transaction in a component security during the preceding 6 full calendar months divided by the total number of such transactions during the preceding 6 full calendar months ("non-volume-weighted average price"). This choice provides flexibility in a manner that may lower implementation costs. The SEC seeks comments as to the benefits and flexibility of these two methods of calculating "average price" for purposes of determining whether the dollar value of ADTV of the lowest weighted 25% of an index meets the statutory threshold under the above-stated condition.

Proposed Rule 3a55–1 under the Exchange Act would also mandate a "snapshot" method for determining dollar value of ADTV for the lowest weighted 25% of an index.[74] On a particular day, the lowest weighted component securities comprising, in the aggregate, 25% of an index's weighting, would be those securities that are the lowest weighted securities when all the securities in such index are ranked from lowest to highest based on the index's weighting methodology, and for which the sum of the weight of such securities is equal to, or less than, 25%.

The SEC believes that taking a "snapshot" of the securities comprising the lowest weighted 25% of an index for a particular day, and then using that "snapshot" to determine the dollar value of ADTV for those securities for the preceding 6 months, is a reasonable method of calculation that may reduce the computation burden on national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade. Otherwise, for each day of the preceding 6 full calendar months, the market would have to assess the weighting of each security, rank the securities by weighting, and then determine the ADTV for the lowest weighted 25% of the index that day. The SEC seeks comments as to the benefits of this "snapshot" method of calculating the lowest weighted 25% of an index.

Under the Exchange Act, market capitalization and the dollar value of ADTV must be calculated "as of the preceding 6 full calendar months." The proposed rule would specify a "rolling" 6 month period, *i.e.*, with respect to a particular day, the "preceding 6 full calendar months" would mean the period of time beginning on the same calendar date 6 months before and ending on the day prior to that day. A national securities exchange, designated contract market, registered DTEF, or foreign board of trade would benefit from this definition because a specific and objective time frame for the required calculations would be provided. The SEC requests comment as to the benefits of this "preceding 6 full calendar months" criteria and asks for suggestions and examples of any alternative approach.

The SEC believes proposed Rule 3a55–1 under the Exchange Act would provide an additional benefit to national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade by permitting use of foreign trading data for the calculations of market capitalization and the dollar value of ADTV when component securities of an index are also traded on markets outside of the United States. The proposed rule would clarify that such foreign transaction data may be used only if it has been reported to a foreign financial regulatory authority in the jurisdiction in which the security is traded, and that, if the price information is reported in a foreign currency, it must be converted into U.S. dollars on the basis of the transaction date's noon buying rate in New York City for cable transfers in foreign currencies as certified for customs purposes by the Federal Reserve Bank of New York. The SEC invites comments and appropriate data regarding the benefits and/or costs associated with the use of information from transactions outside the United States.

In addition, proposed Rule 3a55–2 under the Exchange Act would provide a limited exclusion from the definition of "narrow-based security index" for an index underlying a futures contract that has traded for less than 30 days, as long as the index would not have been a narrow-based index for the 6 full calendar months prior to the first day of trading. This exclusion would be beneficial because it would allow futures contracts to continue to trade during this 30 day period without triggering Exchange Act provisions requiring registration by the market trading the futures. The SEC requests comments on the benefits of this exemption.

Finally, proposed Rule 3a55–3 under the Exchange Act would establish that when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, that index shall not be considered a narrow-based security index if it would not be a narrow-based security index pursuant to the statutory definition of a narrow-based security index or the exclusions from that definition. The proposed rule would clarify and establish that when a futures contract on an index is traded on or subject to the rules of a foreign board of trade, such index would not be a narrow-based security index if it would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered DTEF. The SEC seeks comments on the benefits of such a rule.

The SEC welcomes comments as to the benefits and flexibility provided by the methods of calculation and limited exclusion discussed above and also seeks comments as to any alternative methodologies that may be used.

B. Costs

In complying with proposed Rules 3a55–1 through 3a55–3 under the Exchange Act, a national securities exchange, designated contract market, registered DTEF, or foreign board of trade would incur certain costs. Under the CFMA, national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade must use the methods provided by the proposed rules to determine whether or not a security index is narrow-based and thus whether the

[73] The proposed rules specify that the volume-weighted average price must be used for purposes of determining dollar value of ADTV of the lowest weighted 25% of an index, if the result is less than $55,000,000 when using the non-volume-weighted average price ($33,000,000 in the case of an index with 15 or more component securities).

[74] For purposes of the Exchange Act, a narrow-based security index includes an index in which the lowest weighted component securities comprising in the aggregate 25% of the index's weighting have an aggregate dollar value of ADTV of less than $50,000,000 ($30,000,000 in the case of an index with 15 or more component securities).

futures contract is subject solely to the CFTC's jurisdiction or subject to joint jurisdiction of the CFTC and SEC. Thus the costs of complying with the proposed rules primarily are attributable to the implementation of the new provisions of the Exchange Act pertaining to the definition of narrow-based security index. National securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade trading these products are responsible for assuring compliance with the proposed rules and thus would incur various costs in determining the market capitalization and the dollar value of ADTV for component securities of a security index. The SEC, however, is unable at this time to estimate the extent of the costs the proposed calculation methodologies will engender.

The statutorily-mandated computations contained in the proposed rules would require national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade to gather information to ascertain the market capitalization and the dollar value of ADTV for component securities of an index with respect to each day, taking into account data for the preceding 6 full calendar months. To compute market capitalization, the proposed rules require a market to know the number of outstanding shares of a security as reported on the issuer's most recent annual or periodic report filed with the SEC and each security's average price during the preceding 6 full calendar months. To compute dollar value of ADTV, the rules require a market to tally the average daily trading volume and the average price for each component security during the preceding 6 full calendar months. An additional calculation would be required to determine the lowest weighted 25% of an index. Alternatively, a market could incur costs if it contracted with an outside party to perform the calculations. In addition, a national securities exchange, designated contract market, registered DTEF, or foreign board of trade may be confronted with costs associated with obtaining and accessing appropriate data from an independent third party vendor. For example, national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade may be required to pay certain fees to such a vendor to acquire the necessary information. Furthermore, if the market capitalization and dollar value of ADTV calculations require data that is not readily available, particularly if foreign data is used, national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade possibly would incur additional costs to obtain such data. The SEC requests comments, data, and estimates on all aspects of the costs associated with the proposed calculations. Commenters should address the likelihood that certain market information may not be readily available and the potential costs associated with obtaining that information.

In addition, an exclusion from the definition of narrow-based security index is available when all component securities are among both the Top 750 securities (by market capitalization) and Top 675 securities (by dollar value of ADTV). A designated contract market, registered DTEF, or foreign board of trade would be charged with identifying these Top 750 and Top 675 securities to determine whether a security index qualifies for this exclusion by using the calculations specified in the proposed rules. Commenters are requested to provide comments, cost estimates, and any other relevant data with respect to the costs involved in making such determinations.

The calculations required under the proposed rules for market capitalization and the dollar value of ADTV may require additional data storage.[75] A national securities exchange, designated contract market, or registered DTEF would need to consider how to store the data—whether to maintain hard copies or electronic copies of all the computations. The national securities exchange, designated contract market, or registered DTEF would also have to take into consideration the time period for which the data would have to be stored and the costs associated with such storage and maintenance. The SEC specifically requests comments on the recordkeeping costs and data maintenance associated with the proposals and whether these costs would be significant.

A national securities exchange, designated contract market, registered DTEF, or foreign board of trade may also incur resource costs to carry out the computations required under the proposed rules. Comments are requested as to whether the proposed rules are likely to result in a need to increase the number of staff, or result in additional resource burdens, to perform the required calculations. Commenters should provide cost data to support their views.

Finally, the SEC requests commenters to identify any other costs associated with the proposals that have not been considered herein, and what the extent of those costs would be.

VIII. Consideration of Burden on Competition, and Promotion of Efficiency, Competition, and Capital Formation

SEC

Section 3(f) of the Exchange Act requires the SEC, when engaged in rulemaking that requires it to consider or determine whether an action is necessary or appropriate in the public interest, to consider whether the action would promote efficiency, competition, and capital formation.[76] Section 23(a)(2) requires the SEC, in adopting rules under the Exchange Act, to consider the impact any rule would have on competition.[77]

The SEC believes that proposed Rule 3a55–1 would promote efficiency by setting forth clear methods and guidelines for national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade in applying the statutory definition of narrow-based security index. The SEC further believes that proposed Rule 3a55–2 would promote efficiency by providing designated contract markets, registered DTEFs, and foreign boards of trade a way to ensure that a futures contract trading solely under the jurisdiction of the CFTC does not suddenly become a security future within the first 30 days of trading and subject, as a result, to a new regulatory regime. The SEC also believes that proposed Rule 3a55–3 would promote efficiency by clarifying and establishing that when a futures contract on an index is traded on or subject to the rules of a foreign board of trade, such index would not be a narrow-based security index if it would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered DTEF.

The SEC preliminarily believes that the proposed rules may enhance capital formation, because the proposed rules would provide clarity with respect to the method for determining whether a particular security index is narrow-based or broad-based. In this way, market participants would have

[75] Under Rule 17a–1 under the Exchange Act, 17 CFR 240.17a–1, and Sections 5(d)(17) and 5a(d)(8) of the CEA, and proposed Rule 41.2 under the CEA, respectively, national securities exchanges, designated contract markets, and registered DTEFs would need to preserve records of all their determinations with respect to the narrow-based or non-narrow-based status of security indexes.

[76] Section 3(f) of the Exchange Act, 15 U.S.C. 78c(f).

[77] Section 23(a)(2) of the Exchange Act, 15 U.S.C. 78w(a)(2).

certainty as to whether a futures contract on a particular index falls within the sole jurisdiction of the CFTC or will be under the joint jurisdiction of the SEC and CFTC. The benefits to the capital formation process, however, principally flow from the CFMA itself, which lifts the ban on the trading of single stock futures and narrow-based stock index futures.

The SEC preliminarily believes that the proposed rules would not impose any significant burdens on competition. The statutory definition of narrow-based security index and the exclusions from that definition contained in Section 1a(25)(A) and (B) of the CEA and Section 3(a)(55)(B) and (C) of the Exchange Act set forth the criteria that a market trading a futures contract on a stock index must use to determine whether the SEC and CFTC jointly, or the CFTC alone, would have regulatory authority over that futures contract. The statutory definition of a narrow-based security index and the exclusions from that definition substantively are identical in both the CEA and the Exchange Act, and the joint CFTC–SEC rules proposed in this release also are substantively identical.

The CFMA directs the SEC and CFTC to jointly specify methods for determining market capitalization and the dollar value of ADTV as those terms are used in the aforementioned statutory definition and exclusion. The SEC believes that proposed Rule 3a55–1, developed jointly with the CFTC, sets forth objective methods in fulfillment of the CFMA directive and further clarifies the application of the statute. The SEC believes that proposed Rule 3a55–2 is necessary in the public interest to prevent potential dislocations for market participants trading a futures contract on an index that becomes narrow-based during the first 30 days of trading and would impose no burden on competition. In addition, the SEC believes that proposed Rule 3a55–3 is necessary in the public interest and would impose no burden on competition because it serves to clarify and establish that when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, that index shall not be considered a narrow-based security index if it would not be a narrow-based security index pursuant to the statutory definition of a narrow-based security index or the exclusions from that definition.

The SEC requests comments on the potential benefits, as well as adverse consequences, that may result with respect to efficiency, competition, and capital formation if the proposed rules are adopted.

IX. Regulatory Flexibility Act Certifications

CFTC

The Regulatory Flexibility Act ("RFA") requires federal agencies, in promulgating rules, to consider the impact of those rules on small entities.[78] The rules adopted herein would affect contract markets and other trading facilities. The CFTC has previously established certain definitions of "small entities" to be used in evaluating the impact of its rules on small entities in accordance with the RFA.[79] In its previous determinations, the CFTC has concluded that contract markets are not small entities for the purpose of the RFA.[80] The CFTC has also recently proposed determining that the other trading facilities subject to its jurisdiction, for reasons similar to those applicable to contract markets, would not be small entities for purposes of the RFA.[81]

Accordingly, the CFTC does not expect the rules, as proposed herein, to have a significant economic impact on a substantial number of small entities. Therefore, the Acting Chairman, on behalf of the CFTC, hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed amendments will not have a significant economic impact on a substantial number of small entities. The CFTC invites the public to comment on this finding and on its proposed determination that trading facilities such as registered DTEFs not be small entities for purposes of the RFA.

SEC

Section 603(a)[82] of the Administrative Procedures Act ("APA"),[83] as amended by the RFA,[84] generally requires the SEC to undertake a regulatory flexibility analysis of all proposed rules, or proposed rule amendments, to determine the impact of such rulemaking on "small entities."[85] Section 605(b) of the RFA specifically exempts from this requirement any proposed rule, or proposed rule amendment, which, if adopted, would not "have a significant economic impact on a substantial number of small entities." Proposed Rule 3a55–1 provides methods for determining market capitalization and dollar value of ADTV in addition to other guidelines in applying the definition of narrow-based security index. Proposed Rule 3a55–2 creates an exemption from the definition of narrow-based security index for designated contract markets, registered DTEFs, and foreign boards of trade trading certain futures contracts. Proposed Rule 3a55–3 under the Exchange Act establishes that when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, that index shall not be considered a narrow-based security index if it would not be a narrow-based security index pursuant to the statutory definition of a narrow-based security index or the exclusions from that definition. Because only national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade would be making determinations as to the status of security indexes on which future contracts are trading, the Acting Chairman of the SEC has certified that the proposed rules, if adopted, would not have a significant economic impact on a substantial number of small entities.

The SEC invites commenters to address whether the proposed rules would have a significant economic impact on a substantial number of small entities, and if so, what would be the nature of any impact on small entities. The SEC requests that commenters provide empirical data to support the extent of such impact.

This certification is attached as an Appendix.

X. Statutory Bases and Text of Proposed Rules

List of Subjects

17 CFR Part 41

Security futures products, Reporting and recordkeeping requirements.

17 CFR Part 240

Securities.

Commodity Futures Trading Commission

17 CFR Chapter I

In accordance with the foregoing, Title 17, chapter I of the Code of Federal Regulations is proposed to be amended by adding part 41 as follows:

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[78] 5 U.S.C. 601 *et seq.*

[79] *See* 47 FR 18618–21 (April 30, 1982).

[80] *See id.* at 18619 (discussing contract markets).

[81] *See* 66 FR 14262, 14268 (March 9, 2001).

[82] 5 U.S.C. 603(a).

[83] 5 U.S.C. 551 *et seq.*

[84] 5 U.S.C. 601 *et seq.*

[85] Although Section 601(b) of the RFA defines the term "small entity," the statute permits agencies to formulate their own definitions. The Commission has adopted definitions of the term small entity for the purposes of Commission rulemaking in accordance with the RFA. Those definitions, as relevant to this proposed rulemaking, are set forth in Rule 0–10, 17 CFR 240.0–10. *See* Securities Exchange Act Release No. 18452 (January 28, 1982), 47 FR 5215 (February 4, 1982).

PART 41—SECURITY INDEX AND SECURITY FUTURES PRODUCTS

Sec.

Subpart A—General Provisions

41.1 Definitions.
41.2 Required records.
41.3–41.9 [Reserved]

Subpart B—Narrow-Based Security Indexes

41.10 Purpose and scope.
41.11 Method for determining market capitalization and dollar value of average daily trading volume; application of the definition of narrow-based security index.
41.12 Indexes underlying futures contracts trading for fewer than 30 days.
41.13 Futures contracts on security indexes trading on or subject to the rules of a foreign board of trade.
41.14 Transition period for indexes that cease being narrow-based security indexes.

Authority: 7 U.S.C. 1a(25), 2a and 12a(5).

Subpart A—General Provisions

§ 41.1 Definitions.

For purposes of this part:

(a) *Broad-based security index* means a group or index of securities that does not constitute a narrow-based security index.

(b) *Foreign board of trade* means a board of trade located outside of the United States, its territories or possessions, whether incorporated or unincorporated, where foreign futures or foreign options are entered into.

(c) *Narrow-based security index* has the same meaning as in section 1a(25) of the Commodity Exchange Act.

§ 41.2 Required records.

A designated contract market or registered derivatives transaction execution facility that trades a security index or security futures product shall maintain in accordance with the requirements of § 1.31 books and records of all activities related to the trading of such products, including: Records related to any determination under subpart B of this part whether or not a futures contract on a security index is a narrow-based security index or a broad-based security index.

§§ 41.3—41.9 [Reserved]

Subpart B—Narrow-Based Security Indexes

§ 41.10 Purpose and scope.

This subpart includes methods to be used by trading facilities for the purpose of determining whether a futures product is based on an index of securities subject to the joint jurisdiction of the Commodity Futures Trading Commission and the Securities and Exchange Commission or is based on a broad-based security index subject to the exclusive jurisdiction of the Commodity Futures Trading Commission. The methods included in this subpart relate to determining market capitalization and dollar value of average daily trading volume which are terms used, but not developed, in the statutory definitions of "narrow-based security product." Consistent with Section 1a(25)(E)(ii) of the Commodity Exchange Act and Section 3a(55)(F)(ii) of the Securities Exchange Act of 1934, the methods for determining market capitalization and dollar value of average daily trading volume set forth in this subpart have been adopted jointly by the Commodity Futures Trading Commission and the Securities and Exchange Commission. The subpart also includes rules that permit, subject to certain conditions, a trading facility to continue to trade a narrow-based security index or a broad-based security index, as the case may be, after that index has become a broad-based security index or a narrow-based security index, as the case may be. The comparable rules of the Securities and Exchange Commission may be found at 17 CFR 240.3a55–1 through 240.3a55–3.

§ 41.11 Method for determining market capitalization and dollar value of average daily trading volume; application of the definition of narrow-based security index.

(a) *Determining market capitalization and dollar value of average daily trading volume ("ADTV").* The method to be used to determine a security's market capitalization for purposes of Section 1a(25)(B) of the Act (7 U.S.C. 1a(25)(B)), and dollar value of ADTV for purposes of Section 1a(25)(A) and (B) of the Act (7 U.S.C. 1a(25)(A) and (B)) shall be as follows:

(1) *Market capitalization.* The market capitalization of a security is the product of:

(i) The average price of such security; and

(ii) The number of outstanding shares of such security.

(2) *Dollar value of ADTV.* (i) The dollar value of ADTV of a single security is the product of:

(A) The average price of such security; and

(B) The ADTV of such security.

(ii) The dollar value of ADTV of the lowest weighted 25% of an index is the sum of the dollar value of ADTV of each of the component securities comprising the lowest weighted 25% of such index.

(iii) The dollar value of ADTV of the lowest weighted 25% of an index may be calculated by using average price as defined in paragraph (b)(2)(ii) of this section, provided that when such average price is used, the dollar value of ADTV of the lowest weighted 25% of the index equals or exceeds $55,000,000 (or in the case of an index with 15 or more component securities, $33,000,000).

(b) *Definitions.* For purposes of this section:

(1) *Average daily trading volume* in a security means the total number of shares of such security traded on the trading days of the principal market for the security during the preceding 6 full calendar months (which may include any shares traded on a market outside the United States, provided such information has been reported to a foreign financial regulatory authority in the jurisdiction where the security is traded) divided by the number of trading days of the principal market for the security during the preceding 6 full calendar months.

(2) *Average price.* (i) Average price of a security means the total dollar value of all transactions in such security on the trading days of the principal market for the security during the preceding 6 full calendar months (which may include transactions on a market outside the United States, provided such information has been reported to a foreign financial regulatory authority in the jurisdiction where the security is traded) divided by the total number of shares traded in such transactions, where the dollar value for each transaction is the price per share in U.S. dollars of such transaction multiplied by the number of shares in such transaction.

(ii) For purposes of paragraph (a)(2)(iii) of this section only, average price of a security may be calculated as the sum of the price per share in U.S. dollars for each transaction in such security on the trading days of the principal market for the security during the preceding 6 full calendar months (which may include prices of transactions on a market outside the United States, provided such information has been reported to a foreign financial regulatory authority in the jurisdiction where the security is traded) divided by the total number of such transactions during the preceding 6 full calendar months.

(iii) If the price of a transaction is reported in a currency other than U.S. dollars, such price must be converted into U.S. dollars on the basis of the transaction date's noon buying rate in New York City for cable transfers in foreign currencies as certified for customs purposes by the Federal Reserve Bank of New York.

(iv) The transactions used to determine average price must be the same transactions used to determine ADTV.

(3) *Foreign financial regulatory authority* has the same meaning as in Section 3(a)(52) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(52)).

(4) *Lowest weighted 25% of an index.* With respect to any particular day, the lowest weighted component securities comprising, in the aggregate, 25% of an index's weighting for purposes of Section 1a(25) of the Act ("lowest weighted 25% of an index"), means those securities:

(i) That are the lowest weighted securities when all the securities in such index are ranked from lowest to highest based on the index's weighting methodology; and

(ii) For which the sum of the weight of such securities is equal to, or less than, 25%.

(5) *Outstanding shares* of a security means the number of outstanding shares of such security as reported on the most recent Form10–K, Form10–Q, Form 10–KSB, Form 10–QSB, or Form 20–F (17 CFR §§ 249.310, 249.308a, 249.310b, 249.308b, or 249.220f) filed with the Securities and Exchange Commission by the issuer of such security.

(6) *Preceding 6 full calendar months* means, with respect to a particular day, the period of time beginning on the same day of the month 6 months before and ending on the day prior to such day.

(7) *Principal market* for a security means the single securities market with the largest reported trading volume for the security during the preceding 6 full calendar months.

(8) *Trading days* of the principal market means all days on which the principal market for the security is open for trading.

(9) *Weighting* of a component security of an index means the percentage of such index's value represented, or accounted for, by such component security.

§ 41.12 Indexes underlying futures contracts trading for fewer than 30 days.

(a) An index on which a contract of sale for future delivery is trading on a designated contract market, registered derivatives transaction execution facility, or foreign board of trade is not a narrow-based security index under Section 1a(25) of the Act (7 U.S.C. 1a(25)) for the first 30 days of trading, if such index would not have been a narrow-based security index on each day of the preceding 6 full calendar months prior to the commencement of trading of such contract.

(b) An index that is not a narrow-based security index for the first 30 days of trading pursuant to paragraph (a) of this section, shall become a narrow-based security index if such index has been a narrow-based security index for more than 45 business days over 3 consecutive calendar months.

(c) An index that becomes a narrow-based security index solely because it was a narrow-based security index for more than 45 business days over 3 consecutive calendar months pursuant to paragraph (b) of this section shall not be a narrow-based security index for the following 3 calendar months.

(d) *Preceding 6 full calendar months* has the same meaning as in § 41.11(b)(6).

§ 41.13 Futures contracts on security indexes trading on or subject to the rules of a foreign board of trade.

When a contract of sale for future delivery on a security index is traded on or subject to the rules of a foreign board of trade, such index shall not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered derivatives transaction execution facility.

§ 41.14 Transition period for indexes that cease being narrow-based security indexes.

(a) *Forty-five day tolerance provision.* An index that is a narrow-based security index that becomes a broad-based security index for no more than 45 days over 3 consecutive calendar months shall be a narrow-based security index.

(b) *Transition period for indexes that cease being narrow-based security indexes for more than forty-five days.* An index that is a narrow-based security index that becomes a broad-based security index for more than 45 days over 3 consecutive calendar months shall continue to be a narrow-based security index for the following 3 calendar months.

(c) *Trading in months with open interest following transition period.* After the transition period provided for in paragraph (b) of this section ends, a national securities exchange may continue to trade only in those months in the security futures product that had open interest on the date the transition period ended and shall limit trading to positions that liquidate previously-established positions.

(d) *Definition of calendar month.* Calendar month means, with respect to a particular day, the period of time beginning on a calendar date and ending during another month on a day prior to such date.

By the Commodity Futures Trading Commission.

Dated: May 10, 2001.

Jean A. Webb,

Secretary.

Securities and Exchange Commission

17 CFR Chapter II

In accordance with the foregoing, Title 17, chapter II, part 240 of the Code of Federal Regulations is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Sections 240.3a55–1 through 240.3a55–3 are added to read as follows:

§ 240.3a55–1 Method for determining market capitalization and dollar value of average daily trading volume; application of the definition of narrow-based security index.

(a) *Determining market capitalization and dollar value of average daily trading volume ("ADTV").* The method to be used to determine a security's market capitalization for purposes of Section 3(a)(55)(C) of the Act (15 U.S.C. 78c(a)(55)(C)) and dollar value of ADTV for purposes of Section 3(a)(55)(B) and (C) of the Act (15 U.S.C. 78c(a)(55)(B) and (C)) shall be as follows:

(1) *Market capitalization.* The market capitalization of a security is the product of:

(i) The average price of such security; and

(ii) The number of outstanding shares of such security.

(2) *Dollar value of ADTV.* (i) The dollar value of ADTV of a single security is the product of:

(A) The average price of such security; and

(B) The ADTV of such security.

(ii) The dollar value of ADTV of the lowest weighted 25% of an index is the sum of the dollar value of ADTV of each of the component securities comprising the lowest weighted 25% of such index.

(iii) The dollar value of ADTV of the lowest weighted 25% of an index may be calculated by using average price as defined in paragraph (b)(2)(ii) of this section, provided that when such average price is used, the dollar value of ADTV of the lowest weighted 25% of

the index equals or exceeds $55,000,000 (or in the case of an index with 15 or more component securities, $33,000,000).

(b) *Definitions.* For purposes of this section:

(1) *Average daily trading volume* in a security means the total number of shares of such security traded on the trading days of the principal market for the security during the preceding 6 full calendar months (which may include any shares traded on a market outside the United States, provided such information has been reported to a foreign financial regulatory authority in the jurisdiction where the security is traded) divided by the number of trading days of the principal market for the security during the preceding 6 full calendar months.

(2) *Average price.* (i) Average price of a security means the total dollar value of all transactions in such security on the trading days of the principal market for the security during the preceding 6 full calendar months (which may include transactions on a market outside the United States, provided such information has been reported to a foreign financial regulatory authority in the jurisdiction where the security is traded) divided by the total number of shares traded in such transactions, where the dollar value for each transaction is the price per share in U.S. dollars of such transaction multiplied by the number of shares in such transaction.

(ii) For purposes of paragraph (a)(2)(iii) of this section only, average price of a security may be calculated as the sum of the price per share in U.S. dollars for each transaction in such security on the trading days of the principal market for the security during the preceding 6 full calendar months (which may include prices of transactions on a market outside the United States, provided such information has been reported to a foreign financial regulatory authority in the jurisdiction where the security is traded) divided by the total number of such transactions during the preceding 6 full calendar months.

(iii) If the price of a transaction is reported in a currency other than U.S. dollars, such price must be converted into U.S. dollars on the basis of the transaction date's noon buying rate in New York City for cable transfers in foreign currencies as certified for customs purposes by the Federal Reserve Bank of New York.

(iv) The transactions used to determine average price must be the same transactions used to determine ADTV.

(3) *Foreign financial regulatory authority* has the same meaning as in Section 3(a)(52) of the Act (15 U.S.C. 78c(a)(52)).

(4) *Lowest weighted 25% of an index.* With respect to any particular day, the lowest weighted component securities comprising, in the aggregate, 25% of an index's weighting for purposes of Section 3(a)(55)(B)(iv) of the Act (15 U.S.C. 78c(a)(55)(B)(iv)) ("lowest weighted 25% of an index") means those securities:

(i) That are the lowest weighted securities when all the securities in such index are ranked from lowest to highest based on the index's weighting methodology; and

(ii) For which the sum of the weight of such securities is equal to, or less than, 25%.

(5) *Outstanding shares* of a security means the number of outstanding shares of such security as reported on the most recent Form 10–K, Form 10–Q, Form 10–KSB, Form 10–QSB, or Form 20–F (17 CFR 249.310, 249.308a, 249.310b, 249.308b, or 249.220f) filed with the Commission by the issuer of such security.

(6) *Preceding 6 full calendar months* means, with respect to a particular day, the period of time beginning on the same day of the month 6 months before and ending on the day prior to such day.

(7) *Principal market* for a security means the single securities market with the largest reported trading volume for the security during the preceding 6 full calendar months.

(8) *Trading days* of the principal market means all days on which the principal market for the security is open for trading.

(9) *Weighting* of a component security of an index means the percentage of such index's value represented, or accounted for, by such component security.

§ 240.3a55–2 Indexes underlying futures contracts trading for fewer than 30 days.

(a) An index on which a contract of sale for future delivery is trading on a designated contract market, registered derivatives transaction execution facility, or foreign board of trade is not a narrow-based security index under Section 3(a)(55) of the Act (15 U.S.C. 78c(a)(55)) for the first 30 days of trading, if such index would not have been a narrow-based security index on each day of the preceding 6 full calendar months prior to the commencement of trading of such contract.

(b) An index that is not a narrow-based security index for the first 30 days of trading pursuant to paragraph (a) of this section, shall become a narrow-based security index if such index has been a narrow-based security index for more than 45 business days over 3 consecutive calendar months.

(c) An index that becomes a narrow-based security index solely because it was a narrow-based security index for more than 45 business days over 3 consecutive calendar months pursuant to paragraph (b) of this section shall not be a narrow-based security index for the following 3 calendar months.

(d) *Preceding 6 full calendar months* has the same meaning as in § 240.3a55–1.

§ 240.3a55–3 Futures contracts on security indexes trading on or subject to the rules of a foreign board of trade.

When a contract of sale for future delivery on a security index is traded on or subject to the rules of a foreign board of trade, such index shall not be a narrow-based security index if it would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered derivatives transaction execution facility.

By the Securities and Exchange Commission.

Dated: May 10, 2001.

Margaret H. McFarland,

Deputy Secretary.

Appendix

Note: This appendix to the preamble will not appear in the Code of Federal Regulations.

Regulatory Flexibility Act Certification

I, Laura S. Unger, Acting Chairman of the Securities and Exchange Commission ("SEC"), hereby certify, pursuant to 5 U.S.C. 605(b), that proposed Rules 3a55–1, 3a55–2, and 3a55–3 under the Securities Exchange Act of 1934 ("Exchange Act") would not, if adopted, have a significant economic impact on a substantial number of small entities. Under the Commodity Futures Modernization Act of 2000, the SEC and the Commodity Futures Trading Commission ("CFTC") jointly must specify the method to be used to determine "market capitalization" and "dollar value of average daily trading volume" ("ADTV") for purposes of Section 3(a)(55) of the Exchange Act and Section 1a(25) of the Commodity Exchange Act. Proposed Rule 3a55–1 would specify the methods for determining the dollar value of ADTV and market capitalization for purposes of ascertaining whether a security index is narrow-based under Section 3(a)(55) of the Exchange Act. Proposed Rule 3a55–2 would create an exemption from the definition of narrow-based security index for designated contract markets, registered derivatives transaction execution facilities ("DTEFs"), and foreign boards of trade trading certain futures contracts. Proposed Rule 3a55–3 under the Exchange Act would establish that

when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, that index shall not be considered a narrow-based security index if it would not be a narrow-based security index pursuant to the definition of a narrow-based security index, or the exclusions from that definition, contained in Section 3(a)(55) of the Exchange Act. The proposed rules would be incorporated into a joint rulemaking with the CFTC. Only national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade would be involved in the calculation of ADTV and market capitalization, all of which are not small entities for purposes of the Regulatory Flexibility Act. Accordingly, proposed Rules 3a55–1, 3a55–2, and 3a55–3 would not have a significant economic impact on a substantial number of small entities.

Dated: May 9, 2001.

Laura S. Unger,

Acting Chairman.

[FR Doc. 01–12278 Filed 5–16–01; 8:45 am]

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Federal Register

Thursday,
May 17, 2001

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 25
Electrical Installation, Nickel Cadmium Battery Installation, and Nickel Cadmium Battery Storage; Proposed Rule
Advisory Circular, Electrical Equipment and Installation; Notice

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2001–9634; Notice No. 01–04]

RIN 2120–AH27

Electrical Installation, Nickel Cadmium Battery Installation, and Nickel Cadmium Battery Storage

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to amend the airworthiness standards for transport category airplanes concerning electrical equipment and nickel cadmium battery installations, and nickel cadmium battery storage. Adopting this proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

DATES: Send your comments on or before July 16, 2001.

ADDRESSES: Address your comments to Dockets Management System, U.S. Department of Transportation Dockets, Room Plaza 401, 400 Seventh Street SW., Washington, DC 20590–0001. You must identify the docket number FAA–2001–9634 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA has received your comments, please include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2001–9634". We will date-stamp the postcard and mail it back to you.

You also may submit comments electronically to the following Internet address: *http://dms.dot.gov.*

You may review the public docket containing comments to this proposed regulation at the Department of Transportation (DOT) Dockets Office, located on the plaza level of the Nassif Building at the above address. You may review the public docket in person at this address between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. Also, you may review the public dockets on the Internet at *http//dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, FAA, Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone 425–227–2315; facsimile 425–227–1320, e-mail steve.slotte@faa.gov.

SUPPLEMENTARY INFORMATION:

How Do I Submit Comments to This NPRM?

Interested persons are invited to participate in the making of the proposed action by submitting such written data, views, or arguments, as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket number and be submitted in duplicate to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

We will consider all comments received on or before the closing date before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals in this document may be changed in light of the comments received.

How Can I Obtain a Copy of This NPRM?

You may download an electronic copy of this document using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339); the Government Printing Office (GPO)'s electronic bulletin board service (telephone: 202–512–1661); or, if applicable, the FAA's Aviation Rulemaking Advisory Committee bulletin board service (telephone: 800–322–2722 or 202–267–5948).

Internet users may access recently published rulemaking documents at the FAA's web page at *http://www.faa.gov/avr/arm/nprm/nprm.htm* or the *GPO's* web page at *http://www.access.gpo.gov/nara.*

You may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591; or by calling 202–267–9680. Communications must identify the docket number of this NPRM.

Any person interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular 11–2A, "Notice of Proposed Rulemaking Distribution System," which describes the application procedure.

Background

What Are the Relevant Airworthiness Standards in the United States?

In the United States, the airworthiness standards for type certification of transport category airplanes are contained in Title 14, Code of Federal Regulations (CFR) part 25. Manufacturers of transport category airplanes must show that each airplane they produce of a different type design complies with the appropriate part 25 standards. These standards apply to:

- Airplanes manufactured within the U.S. for use by U.S.-registered operators, and
- Airplanes manufactured in other countries and imported to the U.S. under a bilateral airworthiness agreement.

What Are the Relevant Airworthiness Standards in Europe?

In Europe, the airworthiness standards for type certification of transport category airplanes are contained in Joint Aviation Requirements (JAR)–25, which are based on part 25. These were developed by the Joint Aviation Authorities (JAA) of Europe to provide a common set of airworthiness standards within the European aviation community. Twenty-three European countries accept airplanes type certificated to the JAR–25 standards, including airplanes manufactured in the U.S. that are type certificated to JAR–25 standards for export to Europe.

What Is "Harmonization" and How Did It Start?

Although part 25 and JAR–25 are very similar, they are not identical in every respect. When airplanes are type certificated to both sets of standards, the differences between part 25 and JAR–25 can result in substantial additional costs to manufacturers and operators. These additional costs, however, frequently do not bring about an increase in safety. In many cases, part 25 and JAR–25 may contain different requirements to accomplish the same safety intent. Consequently, manufacturers are usually burdened with meeting the requirements of both sets of standards, although the level of safety is not increased correspondingly.

Recognizing that a common set of standards would not only benefit the

aviation industry economically, but also maintain the necessary high level of safety, the FAA and the JAA began an effort in 1988 to "harmonize" their respective aviation standards. The goal of the harmonization effort is to ensure that:

- Where possible, standards do not require domestic and foreign parties to manufacture or operate to different standards for each country involved; and
- The standards adopted are mutually acceptable to the FAA and the foreign aviation authorities.

The FAA and JAA have identified a number of significant regulatory differences (SRD) between the wording of part 25 and JAR–25. Both the FAA and the JAA consider "harmonization" of the two sets of standards a high priority.

What Is ARAC and What Role Does It Play in Harmonization?

After initiating the first steps towards harmonization, the FAA and JAA soon realized that traditional methods of rulemaking and accommodating different administrative procedures was neither sufficient nor adequate to make appreciable progress towards fulfilling the goal of harmonization. The FAA then identified the Aviation Rulemaking Advisory Committee (ARAC) as an ideal vehicle for assisting in resolving harmonization issues, and, in 1992, the FAA tasked ARAC to undertake the entire harmonization effort.

The FAA had formally established ARAC in 1991 (56 FR 2190, January 22, 1991), to provide advice and recommendations concerning the full range of the FAA's safety-related rulemaking activity. The FAA sought this advice to develop better rules in less overall time and using fewer FAA resources than previously needed. The Committee provides the FAA firsthand information and insight from interested parties regarding potential new rules or revisions of existing rules.

There are 64 member organizations on the committee, representing a wide range of interests within the aviation community. Meetings of the committee are open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act.

The ARAC establishes working groups to develop recommendations for resolving specific airworthiness issues. Tasks assigned to working groups are published in the **Federal Register**. Although working group meetings are not generally open to the public, the FAA solicits participation in working groups from interested members of the public who possess knowledge or experience in the task areas. Working groups report directly to the ARAC, and the ARAC must accept a working group proposal before ARAC presents the proposal to the FAA as an advisory committee recommendation.

The activities of the ARAC will not, however, circumvent the public rulemaking procedures; nor is the FAA limited to the rule language "recommended" by ARAC. If the FAA accepts an ARAC recommendation, the agency proceeds with the normal public rulemaking procedures. Any ARAC participation in a rulemaking package is fully disclosed in the public docket.

What Is the Status of the Harmonization Effort Today?

Despite the work that ARAC has undertaken to address harmonization, there remain a large number of regulatory differences between part 25 and JAR–25. The current harmonization process is extremely costly and time-consuming for industry, the FAA, and the JAA. Industry has expressed a strong desire to conclude the harmonization program as quickly as possible to alleviate the drain on their resources and to finally establish one acceptable set of standards.

Recently, representatives of the aviation industry [including Aerospace Industries Association of America, Inc. (AIA), General Aviation Manufacturers Association (GAMA), and European Association of Aerospace Industries (AECMA)] proposed an accelerated process to reach harmonization.

What Is the "Fast Track Harmonization Program"?

In light of a general agreement among the affected industries and authorities to expedite the harmonization program, the FAA and JAA in March 1999 agreed upon a method to achieve these goals. This method, which the FAA has titled "The Fast Track Harmonization Program," is aimed at expediting the rulemaking process for harmonizing not only the 42 standards that are currently tasked to ARAC for harmonization, but approximately 80 additional standards for part 25 airplanes.

The FAA initiated the Fast Track program on November 26, 1999 (64 FR 66522). This program involves grouping all of the standards needing harmonization into three categories:

Category 1: Envelope

For these standards, parallel part 25 and JAR–25 standards would be compared, and harmonization would be reached by accepting the more stringent of the two standards. Thus, the more stringent requirement of one standard would be "enveloped" into the other standard. In some cases, it may be necessary to incorporate parts of both the part 25 and JAR standard to achieve the final, more stringent standard. (This may necessitate that each authority revises its current standard to incorporate more stringent provisions of the other.)

Category 2: Completed or Near Complete

For these standards, ARAC has reached, or has nearly reached, technical agreement or consensus on the new wording of the proposed harmonized standards.

Category 3: Harmonize

For these standards, ARAC is not near technical agreement on harmonization, and the parallel part 25 and JAR–25 standards cannot be "enveloped" (as described under Category 1) for reasons of safety or unacceptability. A standard developed under Category 3 would be mutually acceptable to the FAA and JAA, with a consistent means of compliance.

Further details on the Fast Track Program can be found in the tasking statement (64 FR 66522, November 26, 1999) and the first NPRM published under this program, Fire Protection Requirements for Powerplant Installations on Transport Category Airplanes (65 FR 36978, June 12, 2000).

Under this program, the FAA provides ARAC with an opportunity to review, discuss, and comment on the FAA's draft NPRM. In the case of this rulemaking, ARAC suggested a number of editorial changes, which have been incorporated into this NPRM.

Discussion of the Proposal

How Does This Proposed Regulation Relate to "Fast Track"?

This proposed regulation results from the recommendations of ARAC submitted under the FAA's Fast Track Harmonization Program. In this notice, the FAA proposes to amend three sections concerning transport category airplane electrical equipment and nickel cadmium batteries. The three proposed changes are described separately below.

Proposal 1: Section 25.1353(a), "Electrical Equipment Installation"

What Is the Underlying Safety Issue Addressed by the Current Standards?

Section 25.1353 and JAR 25.1353 require that transport category airplanes install electrical equipment, controls, and wiring in a manner that will not adversely affect the simultaneous operations of any other electrical unit or

system essential to the safe operation of the airplane.

What Are the Current 14 CFR and JAR Standards?

• The current text of 14 CFR 25.1353(a) is:

Section 25.1353 Electrical equipment and installations

(a) Electrical equipment, controls, and wiring must be installed so that operation of any one unit or system of units will not adversely affect the simultaneous operation of any other electrical unit or system essential to the safe operation.

• The current text of JAR–25.1353(a) is:

JAR 25.1353 Electrical equipment and installations

(a) Electrical equipment, controls, and wiring must be installed so that operations of any one unit or system of units will not adversely affect the simultaneous operation of any other electrical unit or system essential to the safe operation. *Any electrical interference likely to be present in the aeroplane must not result in hazardous effects upon the aeroplane or its systems except under extremely remote conditions. (See ACJ 25.1353(a).)*

What Are the Differences in the Standards and What Do Those Differences Result in?

Both part 25 and JAR texts require that operation of any one unit or system will not adversely affect the simultaneous operation of any other electrical unit or system essential to safe operation under normal operating conditions. The JAR text also considers failure effects on the airplane or its systems and is therefore considered to be more stringent. JAR 25.1353(a) with its related Advisory Circular Joint (ACJ) 25.1353(a) provides a clarification in the intent of the requirement.

What, If Any, Are the Differences in the Means of Compliance?

Part 25 does not give a specific means of compliance for this regulation. The JAR standard has a specific ACJ to establish a list of possible sources of interference and reference to JAR 25.1309 to be considered and used for means of compliance. Although the explicit standards are different, there are no differences in the means of compliance.

What Is the Proposed Action?

The proposed action would add both the additional JAR text to part 25, and also adopt the JAR ACJ material.

How Does This Proposed Standard Address the Underlying Safety Issue?

The proposed standard would continue to address the underlying safety issue in the same manner, but would add a requirement to ensure that transport category airplanes include failure conditions and establish a means of compliance.

What Is the Effect of the Proposed Standard Relative to the Current Regulations?

The proposed standard would increase the level of safety for transport category airplanes by adding the additional JAR text to address failure effects in the airplane and its systems. Also, the intent of this regulation would be clarified.

What Is the Effect of the Proposed Standard Relative to Current Industry Practice?

The proposed standard would maintain the same level of safety since current industry practice is to comply with both standards. Additionally, the understanding of the intent of this regulation would be clarified.

What Other Options Have Been Considered and Why Were They Not Selected?

Adoption of the FAA text was considered, however, it was decided to adopt the more stringent JAR with the associated ACJ material. The FAA considers the proposed action to be the most appropriate way to fulfill harmonization goals while maintaining safety and without affecting current industry practice.

Who Would Be Affected by the Proposed Change?

The proposed change would have a minimum effect for aircraft operators and manufacturers of transport category airplanes. However, since the proposed change does not result in any practical changes in requirements or practice, there would not be any significant effect.

Is Existing FAA Advisory Material Adequate?

The FAA plans to adopt the JAR advisory material as an acceptable means of showing compliance with the proposed revision to § 25.1353(a). Public comments concerning the AC material are invited by separate notice following this NPRM.

Proposal 2: Section 25.1353(c)(5). "Nickel Cadmium Battery"

What Is the Underlying Safety Issue Addressed by the Current Standards?

This requirement addresses the design and installation of nickel cadmium storage batteries. Part 25 limits this requirement to batteries only capable of being used to start an engine or auxiliary power unit.

What Are the Current 14 CFR and JAR Standards?

• The current text of 14 CFR 25.1353(c)(5) is:

Section 25.1353 Electrical equipment and installations

* * * (c)(5) Each nickel cadmium battery installation capable of being used to start an engine or auxiliary power unit must have provisions to prevent any hazardous effect on structure or essential systems that may be caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of individual cells.

• The current text of JAR–25.1353(c)(5) is:

JAR–25.1353 Electrical equipment and installations

* * * (c)(5) Each nickel cadmium battery installation must have provisions to prevent any hazardous effect on structure or essential systems that may be caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of individual cells.

What Are the Differences in the Standards and What Do Those Differences Result in?

Section 25.1353 requires provisions only for the batteries capable of being used to start an engine or auxiliary power unit; whereas JAR 25.1353 requires provisions to prevent any hazardous effect on structure or essential systems by all nickel cadmium batteries regardless of their capabilities.

What, If Any, Are the Differences in the Means of Compliance?

Although the explicit standards are different, there are no differences in the means of compliance.

What Is the Proposed Action?

The proposed action would adopt the more stringent JAR standard. This would allow for coverage of a greater range of battery sizes and capabilities than is currently covered in part 25.

How Does This Proposed Standard Address the Underlying Safety Issue?

The proposed standard would add the additional JAR text to part 25. The level of safety would be increased by the new § 25.1353(c)(5) by covering all nickel cadmium battery sizes regardless of their capabilities.

What Is the Effect of the Proposed Standard Relative to the Current Regulations?

The proposed standard would increase the level of safety by covering the design and installation of all nickel

cadmium batteries regardless of their sizes and capabilities for transport category airplanes.

What Is the Effect of the Proposed Standard Relative to Current Industry Practice?

The proposed standard would maintain the same level of safety for aircraft main batteries used for engine or APU starting since this is the current industry practice, however, in relation to all other nickel cadmium batteries, the level of safety may be increased.

What Other Options Have Been Considered and Why Were They Not Selected?

The FAA considers the proposed action to be the most appropriate way to fulfill harmonization goals while maintaining safety and without affecting current industry practice. The FAA considered deletion of the reference to "nickel cadmium" batteries so that the rule would apply to all battery types. This change was not adopted because it would require evaluation of the impact of other types of batteries.

Who Would Be Affected by the Proposed Change?

The proposed change for main batteries would be in line with current design practices, and therefore, the effect would be considered minimal. There may be an impact on other nickel cadmium battery installations by aircraft operators, manufacturers and modifiers.

Is Existing FAA Advisory Material Adequate?

There is no specific advisory material for either part 25 or the JAR. The FAA considers developing new harmonized advisory material to be unnecessary.

Proposal 3: Section 25.1353(c)(6), "Nickel Cadmium Battery Installation"

What Is the Underlying Safety Issue Addressed by the Current Standards?

This requirement is part of § 25.1353(c)(6) and JAR 25.1353(c)(6) that addresses nickel cadmium battery installations with regard to protection against battery overheating.

What Are the Current 14 CFR and JAR Standards?

- The current text of 14 CFR 25.1353(c)(6) is:

Section 25.1353 Electrical equipment and installations

* * * (c)(6) Nickel cadmium battery installations capable of being used to start an engine or auxiliary power unit must have—

(i) A system to control the charging rate of the battery automatically so as to prevent battery overheating;

(ii) A battery temperature sensing and over-temperature sensing and over-temperature warning system with a means for disconnecting the battery from its charging source in the event of an over-temperature condition; or

(iii) A battery failure sensing and warning system with a means for disconnecting the battery from its charging source in the event of battery failure.

- The current text of JAR–25.1353(c)(6) is:

JAR–25.1353 Electrical equipment and installations

(c)(6) Nickel cadmium battery *installations that are not provided with low-energy charging means* must have—

(i) A system to control the charging rate of the battery automatically so as to prevent battery overheating;

(ii) A battery temperature sensing and over-temperature warning system with a means for disconnecting the battery from its charging source in the event of an over-temperature condition; or

(iii) A battery failure sensing and warning system with a means for disconnecting the battery from its charging source in the event of battery failure. [See ACJ 25.1353(c)(6)(ii) and (iii).)]

What Are the Differences in the Standards and What Do Those Differences Result in?

The part 25 standard specifies nickel cadmium battery installations capable of being used to start an engine or auxiliary power unit. The more stringent JAR standard, with its related ACJ 25.1353(c)(6) material, provides requirements for all nickel cadmium battery installations (not provided with low-energy charging means) in addition to those provided for engine or APU starting.

What, If Any, Are the Differences in the Means of Compliance?

Section 25.1353 requires only nickel cadmium battery installations capable of being used to start an engine to show compliance. The JAR 25.1353 requires all nickel cadmium battery installations (not provided with a low energy charging means) to show compliance to the JAR 25.1353 requirements. The JAR has specific ACJ material to address the maintenance requirements of temperature sensing and over-temperature warning devices installed to cover the requirements of 25.1353.

What Is the Proposed Action?

The proposed action would revise § 25.1353(c)(6) to adopt a modified, more stringent JAR 25.1353(c)(6) and the associated ACJ. The modification to the JAR is to remove the words "that are not provided with low energy charging means." The proposed standard would provide for greater coverage by including all nickel cadmium battery installations, irrespective of whether provided for engine or APU starting. Service experience has shown that any battery installation can, if not carefully controlled, result in an overheat or fire condition. The proposed action is also in line with current design practices.

How Does This Proposed Standard Address the Underlying Safety Issue?

The proposed standard would expand the requirement to cover all nickel cadmium battery installations addressing the underlying safety concern of battery overheat and/or fire.

What Is the Effect of the Proposed Standard Relative to the Current Regulations?

The proposed revision for part 25 would expand the requirement to include all nickel cadmium batteries regardless of their use. The level of safety, therefore, would be increased.

What Is the Effect of the Proposed Standard Relative to Current Industry Practice?

The proposed standard would be in line with current industry practice for aircraft main batteries used for engine or APU starting, however, in relation to all other nickel cadmium batteries the level of safety may be increased.

What Other Options Have Been Considered and Why Were They Not Selected?

The FAA considers the proposed action to be the most appropriate way to fulfill harmonization goals while maintaining safety and without affecting current industry practices. The adoption of § 25.1353(c)(6) was considered, however, for the reasons stated above the JAR was selected.

Who Would Be Affected by the Proposed Change?

The proposed change is in line with current design practices and, therefore, the effect on batteries used for engine or APU starting is considered to be minimal. There may be an impact on other nickel cadmium battery installations by aircraft operators, manufacturers and modifiers.

Is Existing FAA Advisory Material Adequate?

The FAA considers that adopting the existing JAA ACJ material would be necessary to address the means of compliance for § 25.1353(c)(6). The FAA recommends adopting the JAR ACJ to 25.1353(c)(6) as advisory material. Public comments concerning this

proposed revision are invited by separate notice, following this NPRM.

What Regulatory Analyses and Assessments Has the FAA Conducted?

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more, in any one year (adjusted for inflation).

In conducting these analyses, the FAA has determined that this proposed rulemaking has benefits, but no costs, and that it is not "a significant regulatory action" under section 3(f) of Executive Order 12866. This proposed rulemaking would not have a significant economic impact on a substantial number of small entities, reduces barriers to international trade, and imposes no unfunded mandates on State, local, or tribal governments, or the private sector.

Because there are no apparent costs associated with this proposal, it does not warrant the preparation of a full economic evaluation for placement in the docket. The basis of this statement and for the above determinations is summarized in this section of the preamble. The FAA requests comments with supporting documentation in regard to the conclusions contained in this section.

Presently, airplane manufacturers must satisfy both the Title 14, Code of Federal Regulations (14 CFR) and the European Joint Aviation Requirements (JAR) certification standards to market transport category aircraft in both the United States and Europe. Meeting two sets of certification requirements raises the cost of developing a new transport category airplane often with no increase in safety. In the interest of fostering international trade, lowering the cost of aircraft development, and making the certification process more efficient, the FAA, JAA, and aircraft manufacturers have been working to create to the maximum possible extent a single set of certification requirements accepted in both the United States and Europe. These efforts are referred to as harmonization.

This proposed rulemaking would replace section(s) 25.1353(a), 25.1353(c)(5), and 25.1353(c)(6) of part 25 with the "more stringent" section(s) 25.1353(a), 25.1353(c)(5), and 25.1353(c)(6) of JAR part 25. The FAA has concluded for the reasons previously discussed in the preamble that the adoption of these JAR requirements into 14 CFR is the most efficient way to harmonize these section(s) and in so doing, the existing level of safety will be preserved.

Proposal 1: Electrical Installation, Section 25.1353(a)

The FAA estimates that there are no costs associated with this proposal. A review of current manufacturers of transport category aircraft certificated under part 25 has revealed that all such future aircraft are expected to be certificated under part 25 of both 14 CFR and JAR. Since future certificated transport category aircraft are expected to meet the existing section 25.1353(a) of JAR requirement and this proposed rule simply adopts the same JAR requirement, manufacturers would incur no additional cost resulting from this proposal.

Furthermore, this proposed rulemaking is in line with current industry practices, which follow Radio Technology Commission for Aeronautics (RTCA) DO–160D, Environmental Conditions and Test Procedures. The DO–160D sets forth the standard procedures and environmental test criteria for testing airborne equipment for the entire spectrum of aircraft from light general aviation aircraft and helicopters through the "Jumbo Jets" and SST categories of aircraft. Examples of tests covered include vibration, power input radio frequency susceptibility, lightning, and electrostatic discharge. This standard is an internationally recognized standard of testing.

Also, a new company entering the manufacturing industry must comply with these standards for testing electrical systems, and therefore, the FAA expects any additional cost imposed by this proposal to be minimal and the level of safety to be maintained. In fact, manufacturers are expected to receive cost-savings by a reduction in the FAA/JAA certification requirements for new aircraft.

The FAA, however, has not attempted to quantify the cost savings that may accrue due to this specific proposed rulemaking, beyond noting that while they may be minimal, they contribute to a large potential harmonization savings. The agency concludes that because there is consensus among potentially impacted airplane manufacturers that savings will result, further analysis is not required.

Proposal 2: Nickel Cadmium Battery, Section 25.1353(c)(5)

The FAA estimates that there are no costs associated with this proposal. A review of current manufacturers of transport category aircraft certificated under part 25 has revealed that all such future aircraft are expected to be certificated under part 25 of both 14 CFR and JAR. Since future certificated transport category aircraft are expected to meet the existing section 25.1353(c)(5) of JAR requirement and this proposed rule simply adopts the same JAR requirement, manufacturers would incur no additional cost resulting from this proposal.

This proposed rulemaking would require *all* nickel cadmium batteries to be tested. The FAA believes this testing is the current practice. For example, engineers identified a total of 33 nickel cadmium batteries on a typical Boeing Model 777. In line with current industry practice, nickel cadmium batteries used to power the Engine and Auxiliary Power Unit are tested to prevent any hazardous effect on structure or essential systems that may be caused by overheating of the battery or its individual cells.

This proposed rulemaking would require that the other batteries used for such things as the Emergency Power Assist System (door), the Cockpit Voice Recorder—Underwater Locator Beacon, and the Flight Data Recorder—Underwater Locator Beacon also be tested according to current industry practice. Thus, the FAA expects any additional costs imposed by this proposal to be minimal, and the level of safety to be maintained. The FAA requests comments to the contrary, identifying additional testing, time, procedures, paperwork, and cost estimates.

Proposal 3: Nickel Cadmium Battery Installation, Section 25.1353(c)(6)

The FAA estimates that there are no costs associated with this proposal. A review of current manufacturers of transport category aircraft certificated under part 25 has revealed that all such future aircraft are expected to be certificated under part 25 of both 14 CFR and JAR. Since future certificated transport category aircraft are expected to meet the existing section 25.1353(c)(6) of JAR requirement and this proposed rule simply adopts the same JAR requirement, manufacturers would incur no additional cost resulting from this proposal.

Current industry practice requires that the nickel cadmium batteries used to start the Engine or Auxiliary Power Unit must have a system to control the battery to prevent overheating, a temperature sensing and over-temperature warning system, or a battery failure sensing and warning system with a means for disconnecting the battery. Thus, the FAA expects any additional costs imposed by this proposal to be minimal, and the level of safety to be maintained. The FAA requests comments to the contrary, identifying additional testing, time, procedures, paperwork, and cost estimates.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) of 1980 as amended, establishes as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the sale of the business, organizations, and government jurisdictions subject to regulation. To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that the rule will, the Agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA believes that this proposed rule would not have a significant economic impact on a substantial number of small entities for two reasons. First, the net effect of the proposed rule is minimum regulatory cost relief. The proposed rule requires that new transport category aircraft manufacturers meet just the "more stringent" European certification requirement, rather than both the United States and European standards. Airplane manufacturers already meet or expect to meet this standard as well as the existing requirements of 14 CFR. Second, all United States transport-aircraft category manufacturers exceed the Small Business Administration small-entity criteria of 1,500 employees for aircraft manufacturers. United States part 25 airplane manufacturers include: The Boeing Company, Cessna Aircraft, Gulfstream Aerospace, Learjet (owned by Bombardier), Lockheed Martin, McDonnell Douglas (a wholly-owned subsidiary of The Boeing Company), Raytheon Aircraft, and Sabreliner Corporation.

Given that this proposed rule is only minimally cost-relieving and that there are no small entity manufacturers of part 25 airplanes, the FAA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the potential effect of this proposed rule and determined that it supports the Administration's free trade policy because this proposed rule would use European international standards as the basis for U.S. standards.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million in any year, therefore the requirements of the act do not apply.

What Other Assessments Has the FAA Conducted?

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule and the principles and criteria of Executive Order 13132, Federalism. The FAA has determined that this action 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, the FAA has determined that this notice of proposed rulemaking would not have federalism implications.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determines that there are no ICAO Standards and Recommended Practices that correspond to this proposed regulation.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D,

appendix 4, paragraph 4(j), this proposed rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Public Law 94–163, as amended (43 U.S.C. 6362), and FAA Order 1053.1. It has been determined that it is not a major regulatory action under the provisions of the EPCA.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this proposed rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could, if adopted, affect intrastate aviation in Alaska. The FAA therefore specifically requests comments on whether there is justification for applying the proposed rule differently to intrastate operations in Alaska.

Plain Language

In response to the June 1, 1998, Presidential memorandum regarding the issue of plain language, the FAA re-examined the writing style currently used in the development of regulations. The memorandum requires Federal agencies to communicate clearly with the public. We are interested in your comments on whether the style of this document is clear, and in any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.plainlanguage.gov.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 25 of Title 14, Code of Federal Regulations, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for Part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702 and 44704.

2. Amend § 25.1353 by revising paragraphs (a), (c)(5), and (c)(6) to read as follows:

§ 25.1353 Storage battery design and installation.

(a) Electrical equipment, controls, and wiring must be installed so that operations of any one unit or system of units will not adversely affect the simultaneous operation of any other electrical unit or system essential to the safe operation. Any electrical interference likely to be present in the airplane must not result in hazardous effects upon the airplane or its systems except under extremely remote conditions.

* * * * *

(c) * * *

(5) Each nickel cadmium battery installation must have provisions to prevent any hazardous effect on structure or essential systems that may be caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of individual cells.

(6) Nickel cadmium battery installations must have—

(i) A system to control the charging rate of the battery automatically so as to prevent battery overheating; or

(ii) A battery temperature sensing and over-temperature warning system with a means for disconnecting the battery from its charging source in the event of an over-temperature condition; or

(iii) A battery failure sensing and warning system with a means for disconnecting the battery from its charging source in the event of battery failure.

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

Lirio Liu Nelson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12196 Filed 5–16–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular 25.1353–1X, Electrical Equipment and Installations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed Advisory Circular (AC) 25.1353–1X and request for comments.

SUMMARY: This notice announces the availability of and requests comment on a proposed advisory circular (AC) that provides methods acceptable to the Administrator for showing compliance with the airworthiness standards for electrical equipment on transport category airplanes. The guidance provided in the AC supplements the engineering and operational judgment that must form the basis of any compliance findings relative to electrical installation and nickel cadmium installation to minimize the hazards to an airplane. This notice is necessary to give all interested persons an opportunity to present their views on the proposed AC.

DATES: Comments must be received on or before June 15, 2001.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Attn: Stephen Slotte, FAA, Transport Airplane Directorate, Aircraft Certification Service, Airplane and Flightcrew Branch, ANM–111, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at the above address between 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Susan Boylon, Standardization Branch, ANM–113, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–1152.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters must identify the AC by title and submit comments in duplicate to the address specified above. The Transport Airplane Directorate will consider all communications received on or before the closing date for comments before issuing the final AC.

Availability of Proposed AC

The proposed AC can be found and downloaded from the Internet at *http://www.faa.gov/avr/air/airhome.htm,* at the link titled "Draft AC's" under the "Available Information" drop-down menu. A paper copy of the proposed AC may be obtained by contacting the person named above under the caption **FOR FURTHER INFORMATION CONTACT.**

Discussion

Proposed AC 25.1353–1X, "Electrical Equipment and Installations," has been prepared to provide guidance on one means of demonstrating compliance with the requirements of § 25.1353, "Electrical Equipment and Installations," of Title 14, Code of Federal Regulations (CFR) part 25, commonly referred to as part 25 of the Federal Aviation Regulations (FAR). Part 25 contains the airworthiness standards applicable to transport category airplanes.

The means of compliance described in proposed AC 25.1353–1X is intended to provide guidance to supplement the engineering and operational judgment that must form the basis of any compliance findings relative to paragraph §§ 25.1353(a) and 25.1353(c)(6). These paragraphs concern electrical equipment, nickel cadmium battery installations, and nickel cadmium battery storage.

In accordance with the requirements of § 25.1353(a), show compliance by considering the following sources of interference:

a. Conducted and radiated interference caused by electrical noise generation from apparatus connected to the busbars,

b. Coupling between electrical cables or between cables and aerial feeders,

c. Malfunctioning of electrically-powered apparatus,

d. Parasitic currents and voltages in the electrical distribution and earth systems, including the affects of lightning currents or static discharge,

e. Difference frequencies between generating or other systems, and

f. The requirements of § 25.1309 should also be satisfied.

In accordance with the requirements § 25.1353(c)(6)(ii) and (iii), show compliance by demonstrating the following:

a. Where temperature sensing and over-temperature warning devices are installed to comply with § 25.1353(c)(6)(ii) or (iii), their correct operations should be verified at agreed maintenance intervals in addition to compliance with § 25.1309(a) and (b).

Harmonization of Standards and Guidance

The proposed AC is based on recommendations submitted to the FAA by the Aviation Rulemaking Advisory Committee (ARAC). The FAA tasked ARAC (63 FR 50954, September 23, 1998) to provide advice and recommendations on "harmonizing" certain sections of part 25 with the counterpart standards contained in Joint Aviation Requirements (JAR) 25. The goal of "harmonization tasks," such as this, is to ensure that:

- Where possible, standards and guidance do not require domestic and foreign parties to manufacture or operate to different standards for each country involved; and
- The standards and guidance adopted are mutually acceptable to the FAA and the foreign aviation authorities.

The guidance contained in the proposed AC has been harmonized with that of the JAA, and provides a method of compliance that has been found acceptable to both the FAA and JAA.

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

Lirio Liu Nelson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12197 Filed 5–16–01; 8:45 am]

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Arkansas; comments due by 5-25-01; published 5-10-01

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Status adjustment to lawful permanent resident; certain eligibility restrictions temporarily removed; comments due by 5-25-01; published 3-26-01

JUSTICE DEPARTMENT
Privacy Act; implementation; comments due by 5-23-01; published 4-23-01

LIBRARY OF CONGRESS
Copyright Office, Library of Congress
Copyright arbitration royalty panel rules and procedures:
Cable and satellite statutory licenses; royalty fees; filing requirements; comments due by 5-21-01; published 4-26-01

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Hudson River, NY; safety zone; comments due by 5-21-01; published 3-20-01

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BAE Systems (Operations) Ltd.; comments due by 5-25-01; published 4-25-01

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Dornier; comments due by 5-25-01; published 4-25-01

McDonnell Douglas; comments due by 5-22-01; published 3-23-01

Pratt & Whitney; comments due by 5-21-01; published 3-22-01

Raytheon; comments due by 5-25-01; published 3-26-01

Class E airspace; comments due by 5-25-01; published 4-10-01

Restricted areas; comments due by 5-21-01; published 4-5-01

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Pipeline integrity management in high consequence areas; comments due by 5-21-01; published 3-21-01

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Importation restrictions, markings, repackaging, and forfeited tobacco products destruction; comments due by 5-25-01; published 3-26-01

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H.R. 256/P.L. 107–8

To extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted. (May 11, 2001; 115 Stat. 10)

Last List April 13, 2001

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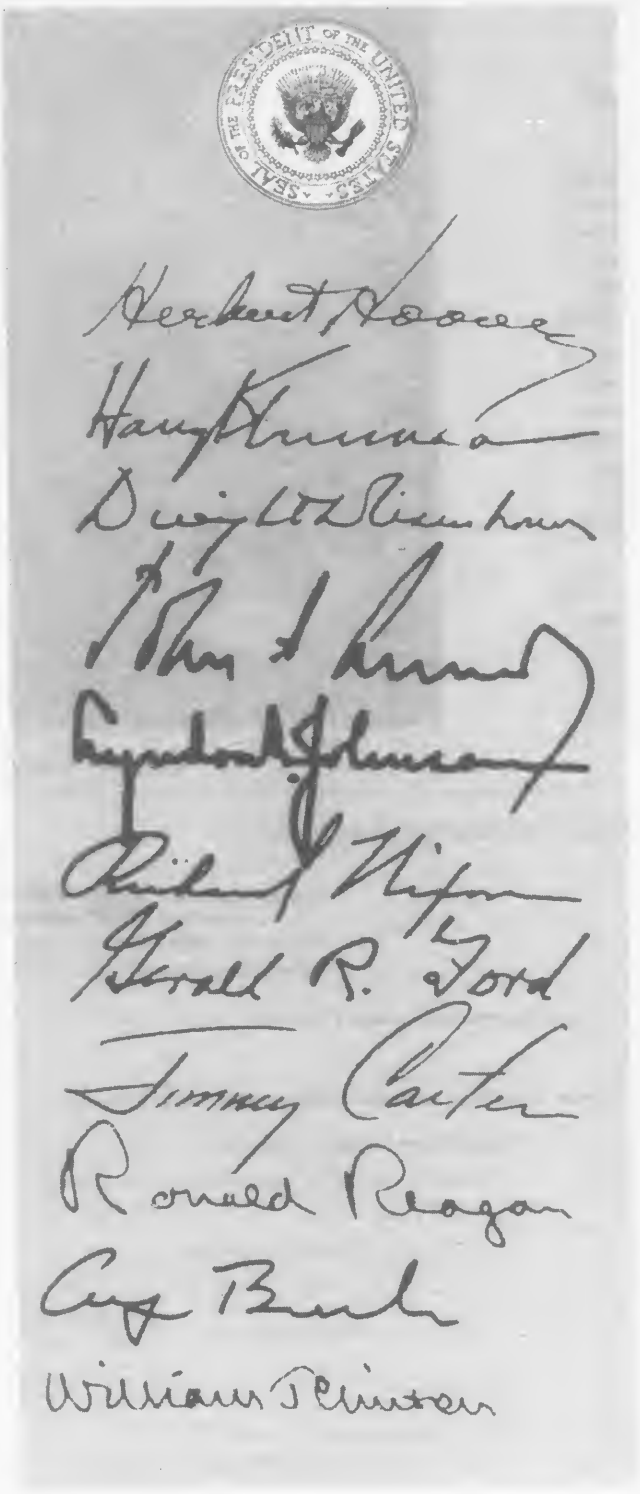

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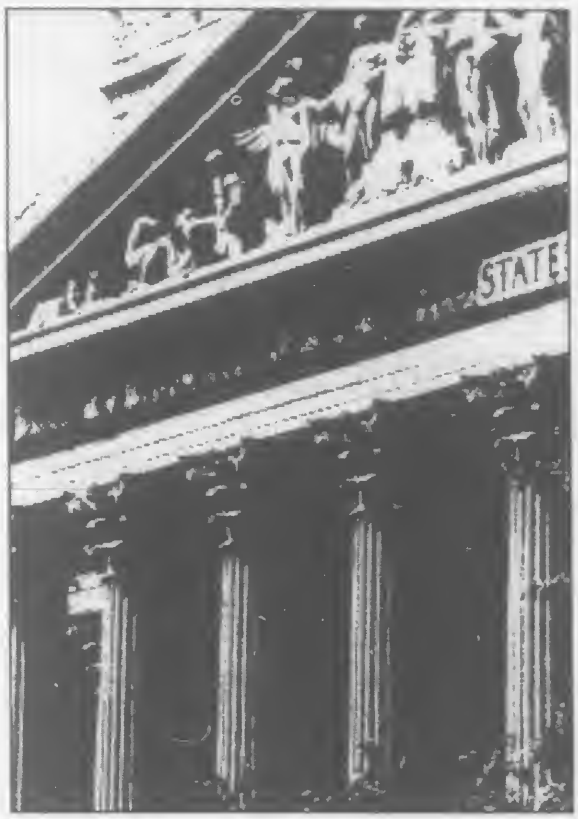

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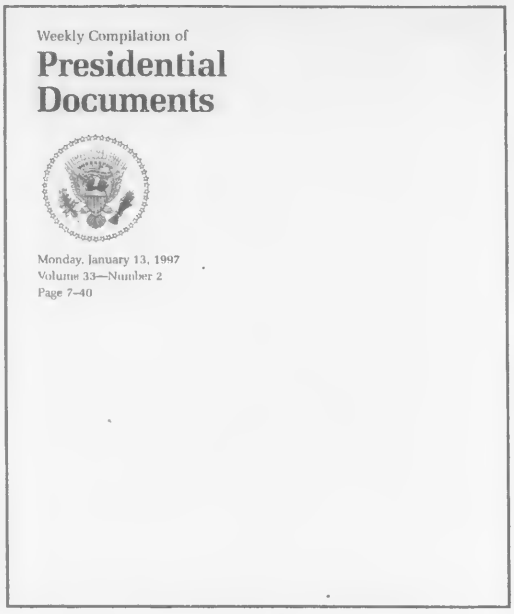

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