Federal Register

3–14–01 Wednesday
Vol. 66 No. 50 Mar. 14, 2001

United States Government Printing Office
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(ISSN 0097–6326)

Federal Register

3–14–01 Wednesday
Vol. 66 No. 50 Mar. 14, 2001
Pages 14825–15014

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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, April 17, 2001 at 9:00 a.m.

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

RESERVATIONS: 202–523–4538

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–018–1]

Change in Disease Status of Great Britain and Northern Ireland Because of Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations governing the importation of certain animals, meat, and other animal products by removing Great Britain (England, Scotland, Wales, and the Isle of Man) and Northern Ireland from the list of regions considered to be free of rinderpest and foot-and-mouth disease. We are taking this action because the existence of foot-and-mouth disease has been confirmed there. The effect of this action is to prohibit or restrict the importation of any ruminant or swine into any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from Great Britain or Northern Ireland.

DATES: This interim rule was effective on January 15, 2001. We invite you to comment on this docket. We will consider all comments that we receive by May 14, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–018–1, 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. 01–018–1.

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: Dr. Gary Colgrove, Assistant Director, Sanitary Trade Issues, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

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

Prior to the effective date of this interim rule, Great Britain (England, Scotland, Wales, and Isle of Man) and Northern Ireland were listed in §§ 94.1 and 94.11 as regions considered to be free of rinderpest and FMD. However, on February 19, 2001, a suspected outbreak of FMD was detected in Essex, England. On February 12, 2001, the Chief Veterinary Officer of United Kingdom's Ministry of Agriculture, Fisheries and Food (MAFF) notified us and the Office International des Epizooties (OIE) with clinical confirmation of the FMD diagnosis. Additional outbreaks of FMD have subsequently been confirmed elsewhere in Great Britain. On February 27, 2001, a suspected outbreak of FMD was detected in Meigh, County Armagh, Northern Ireland. Northern Ireland's Agriculture Minister reported clinical confirmation of the FMD diagnosis on March 1, 2001.

MAAF and Northern Ireland's Department of Agriculture and Rural Development (NIDARD) are still investigating the virus' mode of introduction into the affected areas and are conducting extensive surveillance outside the quarantined areas to ensure that the disease is confined to those locations within the quarantined areas where the outbreaks are known to have occurred. Until the results of the epidemiological investigation and the surveillance activities are known, we believe that it is necessary to impose restrictions on all of Great Britain (England, Scotland, Wales, and Isle of Man) and Northern Ireland to protect the livestock of the United States from FMD.

Therefore, we are amending the regulations in § 94.1 by removing Great Britain (England, Scotland, Wales, and Isle of Man) and Northern Ireland from the list of regions that have been declared to be free of rinderpest and FMD. We are also removing Great Britain (England, Scotland, Wales, and Isle of Man) and Northern Ireland from the list in § 94.11 of regions that are declared to be free of these diseases, but that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected regions. As a result of this action, the importation into the United States of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants and swine from any part of Great Britain (England, Scotland, Wales, and Isle of Man) and Northern Ireland is prohibited or restricted. We are making these amendments effective retroactively to January 15, 2001, because the disease may have been present in the affected areas for some time before it was initially detected.

Although we are removing Great Britain (England, Scotland, Wales, and Isle of Man) and Northern Ireland from the list of regions considered to be free

of rinderpest and FMD, we recognize the MAFF and NIDARD responded immediately to the detection of FMD by imposing restrictions on the movement of ruminants, swine, and ruminant and swine products from the affected areas and by initiating measures to eradicate the disease. We intend to reassess this situation at a future date in accordance with the standard of the OIE. As part of that reassessment process, we will consider all comments received on this interim rule. This future reassessment will enable us to determine whether it is necessary to continue to prohibit or restrict the importation of ruminants or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine from Great Britain and Northern Ireland, or whether we can restore Great Britain and Northern Ireland to the list of regions in which FMD is not known to exist, or regionalize portions of Great Britain or Northern Ireland as FMD-free.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the introduction of FMD into the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

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

We are amending the regulations governing the importation of certain animals, meat, and other animal products by removing Great Britain (England, Scotland, Wales, and Isle of Man) and Northern Ireland from the list of regions considered to be free of rinderpest and FMD. We are taking this action because the existence of FMD has been confirmed there. The effect of this action is to prohibit or restrict the importation of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from Great Britain or Northern Ireland on or after January 15, 2001. This action is necessary to protect the livestock of the United States from FMD.

This emergency situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has retroactive effect to January 15, 2001; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 94

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

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

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

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

Authority: Title IV, Pub.L. 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772; 7 U.S.C. 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) is amended by removing the words "Great Britain (England, Scotland, Wales, and Isle of Man)" and "Northern Ireland,".

§ 94.11 [Amended]

3. In § 94.11, paragraph (a) is amended by removing the words "Great Britain (England, Scotland, Wales, and Isle of Man)" and "Northern Ireland,".

Done in Washington, DC, this 9th day of March 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–6403 Filed 3–13–01; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–48–AD; Amendment 39–12142; AD 2001–05–06]

RIN 2120–AA64

Airworthiness Directives; BMW Rolls-Royce GmbH Models BR700–710A1–10 and BR700–710A2–20 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to BMW Rolls-Royce (RR) GmbH models BR700–710A1–10 turbofan engines with fan disk part numbers (P/N's) BRR18803, BRR19248, or BRR20791 installed, and BR700–710A2–20 turbofan engines with fan disks P/N's BRR19248 or BRR20791 installed. This action requires initial and repetitive inspections of these fan disks for cracks, and if necessary replacement with serviceable parts. This amendment is prompted by reports of cracks in several fan disks in the dovetail area. The actions specified in this AD are intended to detect cracks in the fan disk, that could result in an uncontained engine failure and damage to the airplane.

DATES: Effective March 29, 2001. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 29, 2001.

Comments for inclusion in the Rules Docket must be received on or before May 14, 2001.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–48–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.

The service information referenced in this AD may be obtained from Rolls-Royce Deutschland GmbH, Eschenweg 11, D–15827 DAHLEWITZ, Germany, telephone: International Access Code 011, Country Code 49, 33 7086–2935, fax: International Access Code 011, Country Code 49, 33 7086–3276. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: 781–238–7176, fax: 781–238–7199.

SUPPLEMENTARY INFORMATION: The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on BMW RR GmbH models BR700–710A1–10 and BR700–710A2–20 turbofan engines with the P/N fan disks listed in this AD. The LBA received several reports of cracks in fan disks, in the dovetail area. BMW Rolls-Royce has initially determined that these cracks are caused by high-cycle-fatigue, and that time predictions and cycle predictions for crack initiation cannot be accurately determined. BMW RR is investigating the cause for fan disk cracking, and may introduce a new part number disk as terminating action of the repetitive inspections. This AD may be revised when a terminating action is established.

Manufacturer's Service Information

Rolls-Royce Deutschland (RRD) GmbH has issued Service Bulletin No. SB–BR700–72–900229, Revision 2, dated November 23, 2000 that specifies procedures for initial and repetitive inspections for fan disk cracks. The LBA classified this service bulletin as mandatory and issued airworthiness directive (AD) 2000–348, Revision 2, dated November 23, 2000 in order to ensure the airworthiness of these engines in Germany.

Differences Between Manufacturer's Service Information and This AD

Although the visual inspection requirements of Service Bulletin No. SB–BR700–72–900229, dated November 23, 2000, do not specifically define the pass/fail criteria for fan disks, this AD specifically instructs the rejection of fan disks that have visual cracks. FAA communication with RRD has confirmed that the intent of the service bulletin is to require the owner/operator to default to appropriate maintenance manuals for pass/fail criteria. A subsequent review of the maintenance manuals by the FAA has confirmed that no cracks are allowed in the fan disks.

Bilateral Airworthiness Agreement

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

Required Actions

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD requires initial and repetitive inspections of the fan disks listed in this AD for cracks, in accordance with RRD Service Bulletin No. SB–BR700–72–900229, Revision 2, dated November 23, 2000, and, if necessary, replacement with serviceable parts. The inspections must be done in accordance with the Service Bulletin described previously in this AD.

Immediate Adoption

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NE–48–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–05–06 BMW Rolls-Royce GmbH: Amendment 39–12142. Docket 2000–NE–48–AD.

Applicability

BMW Rolls-Royce (RR) GmbH models BR700–710A1–10 with fan disks part numbers (P/N's) BRR18803, BRR19248, or BRR20791 installed, and BR700–710A2–20 turbofan engines with fan disks P/N's BRR19248 or BRR20791 installed. These engines are installed on but not limited to Bombardier Inc. BD–700–1A10, and Gulfstream Aerospace Corp. G–V series airplanes.

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

Compliance

Required as indicated, unless accomplished previously.

To detect cracks in the fan disk, that could result in an uncontained engine failure and damage to the airplane, accomplish the following:

Initial Inspection

(a) Within 25 flight cycles after the effective date of this AD, visually or ultrasonically inspect fan disks in accordance with Accomplishment Instructions, Paragraph 3 of Rolls-Royce Deutschland (RRD) Service Bulletin No. SB–BR700–72–900229, Revision 2, dated November 23, 2000. If any cracks are found, remove disk from service and replace with a serviceable disk.

Repetitive Inspections

(b) Thereafter, in accordance with Accomplishment Instructions, Paragraph 3 of Rolls-Royce Deutschland (RRD) Service Bulletin No. SB–BR700–72–900229, Revision 2, dated November 23, 2000, inspect every 25 flight cycles, using either visual or ultrasonic method, except if the initial inspection was a visual inspection, the second inspection must be an ultrasonic inspection. Also, perform an ultrasonic inspection at intervals not exceeding 450 flight hours since the last ultrasonic inspection. If any cracks are found, remove disk from service and replace with a serviceable disk.

(c) For the purposes of this AD, serviceable fan disks are disks that have had an initial inspection, either visual or ultrasonic, in accordance with Accomplishment Instructions, Paragraph 3 of RRD Service Bulletin No. SB–BR700–900229, Revision 2, dated November 23, 2000, and found not cracked.

Alternative Methods of Compliance

(d) 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 requests 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 AD, if any, may be obtained from the ECO.

Special Flight Permits

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

Incorporation by Reference

(f) The inspections required by this AD must be performed in accordance with RRD Service Bulletin No. SB–BR700–72–900229, Revision 2, dated November 23, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained Rolls-Royce Deutschland GmbH, Eschenweg 11, D–15827 DAHLEWITZ, Germany, telephone: International Access Code 011, Country Code 49, 33 7086–2935, fax: International Access Code 011, Country Code 49, 33 7086–3276. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on March 29, 2001.

Issued in Burlington, Massachusetts, on March 1, 2001.

David A. Downey,

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

[FR Doc. 01–5736 Filed 3–13–01; 8:45 am]

BILLING CODE 4910–13–U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC–24828A; File No. S7–11–97]

RIN 3235–AH11

Investment Company Names; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to rule 35d–1 under the Investment Company Act of 1940, which was published on February 1, 2001 (66 FR 8509). Rule 35d–1 addresses certain broad categories of investment company names that are likely to mislead investors about an investment company's investments and risks.

EFFECTIVE DATE: March 14, 2001.

FOR FURTHER INFORMATION CONTACT: Paul G. Cellupica, Senior Special Counsel, (202) 942–0721, in the Division of Investment Management, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–0506.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission published in the **Federal Register** of February 1, 2001 (66 FR 8509) new rule 35d–1 under the Investment Company Act of 1940 to address certain broad categories of investment company names that are likely to mislead investors about an investment company's investments and risks.[1] This release corrects a typographical error in the text of the rule.

Correction of Publication

Accordingly, the publication on February 1, 2001, of the final rule relating to investment company names which was the subject of FR Doc. 01–1967, is corrected as follows:

On page 8519, in § 270.35d–1(a)(4), revise the citation "(15 U.S.C. 80–8(b)(3))"to read "(15 U.S.C. 80a–8(b(3))".

By the Commission.

[1] Investment Company Act Release No. 24828 (January 17, 2001) (66 FR 8509 (February 1, 2001)).

Dated: March 8, 2001.
Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 01–6276 Filed 3–13–01; 8:45 am]
BILLING CODE 8010–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301105; FRL–6770–8]

RIN 2070–AB78

Clethodim; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of clethodim in or on tuberous and corm vegetables, sunflower seed, sunflower meal, fruiting vegetable group, carrots, radish roots, radish tops, leaf petioles subgroup, melon subgroup, squash/cucumber subgroup, cranberry, strawberry, clover forage, and clover hay. In addition, this regulation amends tolerances for combined residues of clethodim in or on sugar beet tops, sugar beet molasses, and potato granules/flakes. Interregional Research Project Number 4 (IR-4) and Valent U.S.A. Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This regulation is effective March 14, 2001. Objections and requests for hearings, identified by docket control number OPP–301105, must be received by EPA on or before May 14, 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 VI. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301105 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–3194; e-mail address: brothers.shaja@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing 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/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/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–301105. 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

In the **Federal Register** of March 29, 2000 (65 FR–1660–2)(FRL–6495–5), and December 3, 1997 (62 FR–63942) (FRL–5756–1), EPA issued notices pursuant to section 408 of the FFDCA, 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of pesticide petitions (PP) for tolerances by IR–4 Rutgers, the State University of New Jersey, 681 U.S. Highway No. 1 South, North New Brunswick, NJ 08902 and Valent USA Corporation, Walnut Creek, CA 94596–8025. These notices included a summary of the petitions prepared by Valent USA Corporation, the registrant.

The petitions requested that 40 CFR 180.458 be amended by establishing tolerances for combined residues of the herbicide clethodim, (E)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one] and its metabolites containing the 5-(2-(ethylthiopropyl)cyclohexene-3-one and 5-(2-(ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, on various commodities with the following tolerance levels at parts per million (ppm): tuberous and corm vegetables at 1.0 ppm, potato granules/flakes at 2.0 ppm, sugar beet tops at 1.0 ppm, sugar beet molasses at 1.0 ppm, sunflower seed at 5.0 ppm, sunflower meal at 10.0 ppm, fruiting group, vegetable at 1.0 ppm, carrots at 0.50 ppm, radish roots at 0.50 ppm, radish tops at 0.70 ppm, leaf petioles subgroup at 0.50 ppm, melon subgroup at 2.0 ppm, squash/cucumber subgroup at 0.50 ppm, cranberry at 0.50 ppm, strawberry at 3.0 ppm, clover forage at 10.0 ppm, and clover hay at 20.0 ppm.

The petitioner, IR–4 subsequently revised the petition to propose a tolerance for the leaf petiole vegetable subgroup at 0.60 ppm.

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...."

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 November 26, 1997 (62 FR 62961) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of these actions. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for combined residues of clethodim on tuberous and corm vegetables at 1.0 ppm, potato granules/flakes at 2.0 ppm, sugar beet tops at 1.0 ppm, sugar beet molasses at 1.0 ppm, sunflower seed at 5.0 ppm, sunflower meal at 10.0 ppm, fruiting group, vegetable at 1.0 ppm, carrots at 0.50 ppm, radish roots at 0.50 ppm, radish tops at 0.70 ppm, leaf petioles subgroup at 0.60 ppm, melon subgroup at 2.0 ppm, squash/cucumber subgroup at 0.50 ppm, cranberry at 0.50 ppm, strawberry at 3.0 ppm, clover forage at 10.0 ppm, and clover hay at 20.0 ppm. EPA's assessment of exposures and risks associated with establishing these tolerances follow.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by clethodim are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline Number	Study Type	Results
870.3100	Subchronic-Feeding-Rat	NOAEL= 25 milligrams/kilograms/day (mg/kg/day). LOAEL= 134 mg/kg/day based on decreased body weights, body weight gains, food consumption, and increased absolute and relative liver weights, and centrilobular hypertrophy of liver in both sexes
870.3150	Subchronic-Feeding-Dog	NOAEL= 25 mg/kg/day LOAEL= 75 mg/kg/day based on increased absolute and relative liver weights, severity of liver lesions in both sexes, and increased serum cholesterol and alkaline phosphatase in females
870.3200	21-Day Dermal Toxicity-Rat	Systemic NOAEL= 100 mg/kg/day LOAEL= 1,000 mg/kg/day based on anogenital discharge and staining in both sexes, decreased food efficiency and body weight gain in males, and increases in absolute and relative liver weights in females Dermal NOAEL= not established LOAEL= 10 mg/kg/day based on observed dermal irritation
870.3700	Developmental Toxicity-Rat	Maternal NOAEL= 100 mg/kg/day LOAEL= 350 mg/kg/day based on decreased body weight gain and clinical signs Developmental NOAEL= 100 mg/kg/day LOAEL= 350 mg/kg/day based on decreased fetal body weight and increased skeletal anomalies
870.3700	Developmental Toxicity-Rabbit	Maternal NOAEL= 25 mg/kg/day LOAEL= 100 mg/kg/day based on decreased weight gain and food consumption and clinical signs Developmental NOAEL < 300 mg/kg/day LOAEL= Not determined because no developmental toxicity observed

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline Number	Study Type	Results
870.3800	Reproductive Toxicity- 2-Generation Rat	Parental/Systemic NOAEL= 51 mg/kg/day LOAEL= 263 mg/kg/day based on decreased body weight in both sexes, and particularly in both generations of males, decreased food consumption Reproductive NOAEL= 263 mg/kg/day HDT LOAEL= Not determined because no effects were noted for fertility, length of gestation or growth and development of offspring Offspring NOAEL= 263 mg/kg/day HDT
870.4100	Chronic-Feeding-Dog	NOAEL= 1 mg/kg/day LOAEL= 75 mg/kg/day based on increased absolute and relative liver weights in both sexes with histopathological changes (males only) and increased liver enzymes
870.4200	Carcinogenicity-Mouse (78–week)	NOAEL= 30 mg/kg/day LOAEL= 150 mg/kg/day based on decreased survival, decreased hematology parameters, increased absolute and relative liver weights (female only), centrilobular hypertrophy, increased pigment and bile duct hyperplasia in both sexes No evidence of carcinogenicity
870.4300	Chronic Toxicity/Carcinogenicity-Rat	NOAEL= 19 mg/kg/day LOAEL= 100 mg/kg/day based on decreased body weight means, body weight gains, food consumption, and food efficiency (males only), and increased absolute and relative liver weights with centrilobular hypertrophy (at 12 months) in both sexes No evidence of carcinogenicity
870.5100	Gene Mutation - *Salmonella*	Negative for reverse mutation in *Salmonella* (and *E. coli*) exposed to cytotoxic levels (10,000 µg/plate) with/without activation
870.5300	CHO Assay	Positive for inducing structural aberrations only in the absence of activation (negative $^{+}$S9) at dose near limit of solubility and cytotoxicity (1.0 to 1.2 µL/ml)
870.5395	Micronucleus Assay	Negative for chromosomal damage in bone marrow cells of rats treated orally up to toxic doses (1,500 mg/kg)
870.5550	Unscheduled DNA Synthesis	Negative for unscheduled DNA synthesis (UDS) in hepatocytes from mice treated orally up to toxic doses (5,000 mg/kg)
870.6300	Developmental Neurotoxicity Rat	None available
870.7485	Metabolism Rat	Clethodim is readily absorbed and eliminated (87–92%, urine; 9–17%, feces; < 1% expired air) after 7 days. Gastrointestinal absorption estimated at 89–96%. No evidence of bioconcentration. Extensively metabolized with < 1% eliminated as unchanged parent compound. Predominant metabolite is clethodim sulphoxide (48–68%) after 48 hours.
870.7600	Dermal Absorption Rat	At 10 hours after receiving a single dermal application of 0.05 mg/rat the dermal absorption factor was 30%

B. Toxicological Endpoints

The dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). 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 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 clethodim used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CLETHODIM FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern (LOC) for Risk Assessment	Study and Toxicological Effects
Acute dietary all populations	N/A	N/A	None selected There were no effects observed in oral toxicity studies including developmental toxicity studies in rats and rabbits that could be attributable to a single dose (exposure). Therefore, a dose and endpoint were not selected for this risk assessment.
Chronic dietary all populations	NOAEL= 1.0 mg/kg/day UF = 100 Chronic RfD = 0.01 mg/kg/day	FQPA SF = 1 cPAD = chronic RfD FQPA SF = 0.01 mg/kg/day	Chronic Toxicity-Dog (1 year) Alterations in hematology and clinical chemistry parameters and increased absolute and relative liver weights observed at the LOAEL of 75 mg/kg/day.
Short-term dermal (1 to 7 days) (Residential)	Oral study Maternal NOAEL= 100 mg/kg/day (dermal absorption rate = 30%)	LOC for MOE = 100 (Residential)	Developmental Toxicity-Rat LOAEL = 350 mg/kg/day based on decreased body weight gain and clinical signs of toxicity (salivation)
Intermediate-term dermal (1 week to several months) (Residential)	Oral study NOAEL= 25 mg/kg/day (dermal absorption rate = 30%)	LOC for MOE = 100 (Residential)	Subchronic Toxicity-Dog (90 days) LOAEL = 75 mg/kg/day based on increased absolute and relative liver weights
Long-term dermal (several months to lifetime) (Residential)	Oral study NOAEL= 1.0 mg/kg/day (dermal absorption rate = 30%)	LOC for MOE =100 (Residential)	Chronic Toxicity-Dog (1 year) LOAEL = 75 mg/kg/day based on alterations in hematology and clinical chemistry parameters as well as increases in absolute and relative liver weights
Short-term inhalation (1 to 7 days) (Residential)	Oral study Maternal NOAEL= 100 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE =100 (Residential)	Developmental-Rat LOAEL = 350 mg/kg/day based on decreased body weight gain and clinical signs of toxicity (salivation)
Intermediate-term inhalation (1 week to several months) (Residential	Oral study NOAEL = 25 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential)	Subchronic Toxicity-Dog (90 days) LOAEL = 75 mg/kg/day based on increased absolute and relative liver weights
Long-term inhalation (several months to lifetime) (Residential)	Oral study NOAEL= 1.0 mg/kg/day (dermal absorption rate = 30%)	LOC for MOE =100 (Residential)	Chronic Toxicity-Dog (1 year) LOAEL = 75 mg/kg/day based on alterations in hematology and clinical chemistry parameters as well as increases in absolute and relative liver weights
Cancer (oral, dermal, inhalation)	N/A	N/A	Clethodim is classified as a "Not Likely" carcinogen

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

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.458) for the combined residues of clethodim and its metabolites containing the 2-cyclohexen-1-one moiety, in or on a variety of RACs: Fat, meat, and meat by products (mbyp) of cattle, goats, hogs, horses, poultry, and sheep at 0.20 ppm, milk at 0.05 ppm, eggs at 0.20 ppm, cottonseed at 1.0 ppm, potatoes at 0.5, soybeans at 10.0 ppm, potato flakes and granules at 1.0 ppm, cottonseed meal at 2.0 ppm, and soybean soapstock at 15.0 ppm. In addition, permanent tolerances are established under 40 CFR 180.458(a)(3) and (6) for the combined residues of clethodim and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, expressed as clethodim, in/on dry bulb onions at 0.20 ppm, sugar beet roots at 0.20 ppm, sugar beet tops at 0.50 ppm, and sugar beet molasses at 2.0 ppm. Time-limited tolerances (set to expire April 30, 2001, are established for various commodities under 40 CFR 180.458(a)(2)).

Risk assessments were conducted by EPA to assess dietary exposures from clethodim 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 1–day or single exposure. An endpoint was not identified for acute dietary exposure and risk assessment because no effects were observed in oral toxicity studies including developmental toxicity studies in rats or rabbits that could be attributable to a single dose (exposure). Therefore, an acute dietary exposure assessment was not performed.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment, 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 chronic exposure assessments: The 3–day average of consumption for each sub-population is combined with residues to determine average exposure as mg/kg/day.

The chronic analysis was performed using tolerance level residues for all crops and animal commodities. The weighted average percent crop treated (PCT) data for existing registrations, and 100% crop treated (CT) data (for new uses) were used for the analyses.

iii. *Cancer.* Clethodim has been classified as a group E carcinogen. Therefore, a cancer risk assessment was not performed.

iv. *Anticipated residue and PCT information.* 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 PCT as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows: 3% for cotton, 8% for onions, 3% for peanuts, 4% for soybeans, 15% for sugar beets, and 1% for tomatoes.

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 clethodim may be applied in a particular area.

2. *Dietary exposure from drinking water.* Known environmental characteristics of clethodim depict a compound which is stable to hydrolysis, except in acid conditions, but highly susceptible to photolysis and metabolism.

Parent clethodim is mobile, but has a short metabolic half-life of 1–3 days in soil under aerobic conditions. Therefore, parent compound should not be a ground water concern in most environments. In the event that parent clethodim did reach ground water, the available routes of disappearance would be dilution, some metabolism to persistent degradates, and slow hydrolysis with the rate depending on the pH of the ground water.

The environmental fate data indicate that clethodim, and its sulphoxide and sulphone metabolites may migrate into surface water bodies through run-off which occurs shortly after application (e.g., rainfall). Since they are not adsorbed readily to soil (K_ds of < 0.1 to 7) , they are likely to remain in the aqueous phase, where they are subject to rapid photolysis and biodegradation. They may remain long enough to exert acute effects on resident biota, but are unlikely to cause chronic effects.

Clethodim does not show a significant potential for bio-accumulation in aquatic organisms. Although they have not been individually tested, the primary degradates are highly polar, and would not be expected to bio-accumulate.

The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for clethodim 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 clethodim.

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 ground water. 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 (PC) area factor as an adjustment to account for the maximum PC 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 clethodim, they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models, the EECs of clethodim for chronic exposures are estimated to be 24.2 part per billion (ppb) for surface water and 0.49 ppb for ground 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).

Clethodim is not registered for use on any sites that would result in residential exposure. Based on clethodim labels, Select® and Select® 2EC are both available for weed control use in residential and/or public areas. However, the registrant has indicated that the product is not for use by homeowners. Therefore, homeowners will not handle clethodim products, and a non-occupational handler exposure assessment is not necessary. Following treatment by professional applicators, the public could potentially come into contact with clethodim residues in areas such as patios, along driveways and around golf courses and fence lines. However, weed control with clethodim in theses areas generally consists of a spot treatment, resulting in a very small treated area, and it is unlikely that children would be exposed to these treated areas. Therefore, a non-occupational post-application exposure assessment was not performed.

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 clethodim 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, clethodim 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 clethodim 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 (November 26, 1997 62 FR 62961).

D. 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 data base 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 MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Prenatal and postnatal sensitivity.* The oral perinatal and prenatal data demonstrated no indication of increased sensitivity of rats or rabbits to *in utero* exposure to clethodim.

iii. *Conclusion.* There is a complete toxicity data base for clethodim and exposure data are complete or are estimated based on data that reasonably account for potential exposures. Based on the above, EPA determined that the 1X safety factor to protect infants and children should be removed.

E. 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 milligram/kilogram/day (mg/ kg/day) = cPAD - (average food + residential 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 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 ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA 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, EPA will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* An endpoint for acute dietary exposure was not identified since no effects were observed in oral toxicity studies that could be attributable to a single dose.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to clethodim from food will utilize 29% of the cPAD for the U.S. population, 43% of the cPAD for all infants < 1 year, and 60% of the cPAD for children 1–6 years old. There are no residential uses for clethodim that result in chronic residential exposure to clethodim. In addition, there is potential for chronic dietary exposure to clethodim in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO CLETHODIM

Population Subgroup	cPAD (mg/kg)	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S population (total)	0.01	29	24.2	0.49	250
All infants < 1 year)	0.01	43	24.2	0.49	57
Children 1–6 years	0.01	60	24.2	0.49	40
Children 7–12 years	0.01	42	24.2	0.49	58
Females 13–50 years	0.01	22	24.2	0.49	230

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

Clethodim is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Aggregate cancer risk for U.S. population.* Clethodim has been classified as a group E carcinogen. Therefore, clethodim is not expected to pose a cancer risk to humans.

5. *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 clethodim residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

The method RM-26B-3 (a modification of RM-26B-2) was validated by IR-4 for potatoes, processed potato commodities, sugar beets, sunflowers, bell peppers, non-bell peppers, celery, cantaloupes, and clover. The LOQ was determined to be 0.1 ppm for cantaloupes and bell peppers, 0.2 ppm for potatoes, sugar beets, sunflowers, celery and non-bell peppers, and 0.5 ppm for clover. Average recoveries for all the commodities were within the acceptable range at all fortification levels tested. The common moiety method RM-26B-3 for the determination of clethodim and its metabolites in potatoes, processed potato commodities, sugar beets, sunflowers, bell peppers, non-bell peppers, celery, cantaloupes, and clover is acceptable.

Method RM-26B-2 was validated by IR-4 for the analyses of residues of clethodim in/on radish, carrots, cucumbers, cranberries, and strawberries. The LOQ was determined to be 0.05 ppm for strawberries and cranberries, 0.1 ppm for carrots, and 0.16 ppm for radish. Average recoveries were within the acceptable range for all fortification levels tested and all commodities. The method RM-26B-2 for the determination of clethodim and its metabolites in radish, carrots cucumbers, cranberries, and strawberries is acceptable for data collection and meets the requirements for a residue analytical method to enforce tolerances.

The common moiety method RM-26B-3 for the determination of clethodim and its metabolites is similar to the common moiety method RM–26B–2. The method RM–26B–2 and RM–26D–2 have completed an Independent Laboratory Validation (ILV) and also have completed Tolerance Methods Validations (TMVs) in the Agency's laboratory. Additionally, the compound specific method, EPA-RM-26D-2 is also available and is suitable for residue data collection and as a residue analytical methold to enforce tolerances. Both methods have been forwarded to the Food and Drug Administration for inclusion in a future edition of the Pesticide Analytical Manual, Volume II (PAM II).

The methods may be requested from: Francis Griffith, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Road, Fort George G. Mead, Maryland, 20755–5350; telephone number: (410) 305–2905; e-mail address: griffith.francis@epa.gov.

B. International Residue Limits

There are no established Codex maximum residue limits (MRLs) for residues of clethodim and its metabolites in/on the commodities discussed in the subject petition; therefore, there are no questions with respect to Codex/U.S. tolerance compatibility.

C. Conditions

Registration for members of the tuberous and corm vegetable, subgroup and fruiting vegetables crop group will be made conditional pending the submisson of additional residue field trials.

V. Conclusion

Therefore, these tolerances are established for combined residues of clethodim, [[(E)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one] and its metabolites containing the 5-(2-(ethylthiopropyl)cyclohexene-3-one and 5-(2-(ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, in or on tuberous and corm vegetables at 1.0 ppm, potato granules/flakes at 2.0 ppm, sugar beet tops at 1.0 ppm, sugar beet molasses at 1.0 ppm, sunflower seed at 5.0 ppm, sunflower meal at 10.0 ppm, fruiting vegetable group, at 1.0 ppm, carrots at 0.50 ppm, radish roots at 0.50 ppm, radish tops at 0.70 ppm, leaf petioles subgroup at 0.60 ppm, melon subgroup at 2.0 ppm, squash/cucumber subgroup at 0.50 ppm, cranberry at 0.50 ppm, strawberry at 3.0 ppm, clover forage at 10.0 ppm, and clover hay at 20.0 ppm. Tolerances are amended for combined residues of clethodim in or on sugar beet tops at 1.0 ppm and sugar beet molasses at 1.0 ppm

VI. 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–301105 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 May 14, 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 VI.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 docket control number OPP–301105, 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).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (October 4, 1993 58 FR 51735). 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 prior special consultations 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* (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 petition under FFDCA section 408(d), 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* (August 10, 1999 64 FR 43255). 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.

VIII. 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: February 26, 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.

§ 180.458 Clethodim ((E)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one); tolerances for residues.

2. Section 180.458 is amended by revising the table in paragraph (a)(3), removing paragraphs (a)(4) and (a)(6), and redesignating paragraph (a)(5) as paragraph (a)(4) to read as follows:

(a) * * *

(3) * * *

Commodity	Parts per million
Beet, sugar, molasses	1.0
Beet, sugar, roots	0.20
Beet, sugar, tops	1.0
Carrot	0.50
Cranberry	0.50
Clover, forage	10.0
Clover, hay	20.0
Fruiting group, vegetable	1.0
Leaf petioles subgroup	0.60
Melon subgroup	2.0
Onion, dry bulb	0.20
Potato, granules/flakes	2.0
Radish, roots	0.50
Radish, tops	0.70
Squash/cucumber subgroup	0.50
Strawberry	3.0
Sunflower, meal	10.0
Sunflower, seed	5.0
Vegetable, tuberous and corm group	1.0

* * * * *

[FR Doc. 01–6185 Filed 3–13–01; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301106; FRL–6766–9]

RIN 2070–AB78

Pymetrozine; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of pymetrozine in or on pecans. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on pecans. This regulation establishes a maximum permissible level for residues of pymetrozine in this food commodity.

The tolerance will expire and is revoked on December 31, 2002.

DATES: This regulation is effective March 14, 2001. Objections and requests for hearings, identified by docket control number OPP–301106, must be received by EPA on or before May 14, 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–301106 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6463; and e-mail address: madden.barbara@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 Codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing 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/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/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–301106. 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, 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 section 408(e) and 408 (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for residues of the insecticide pymetrozine, 1,2,4-triazin-3(2H)-one,4,5-dihydro-6-methyl-4-[(3-pyridinylmethylene)amino], in or on pecans at 0.020 part per million (ppm). This tolerance will expire and is revoked on December 31, 2002. EPA will publish a document in the **Federal Register** to remove the revoked tolerance 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 Exemption for Pymetrozine on Pecans and FFDCA Tolerances

The Applicant, the Georgia Department of Agriculture, states that aphids have developed resistance to all labeled products (all chlorinated hydrocarbons, organophosphates, carbamates, or synthetic pyrethroids), except for imidacloprid and aldicarb,

which still provide some suppression of the yellow aphid complex (comprised of the yellow pecan and the blackmargined aphid). Resistance to the organophosphates has also developed in the black pecan aphid, which until recently, had been controlled with this class of chemicals. Unfortunately, the two materials which still retain some effectiveness (imidacloprid and aldicarb) must be used at high rates, performance is often inconsistent, and frequently they fail to provide adequate control. Furthermore, the Applicant states that many growers cannot use aldicarb at all due to its high toxicity.

Growers employ cultural control practices, such as the use of legume ground cover crops to provide alternate hosts for aphids within the orchards. This management of ground cover on orchard floors has been very effective in maintaining lady beetle populations, which have greatly enhanced natural aphid suppression, especially early in the season. However, this practice alone does not provide adequate control, particularly late in the season.

Pecan aphids reproduce parthenogenetically, with up to 32 generations per year, and develop populations which are resistant to chemicals very rapidly. The Applicant states that resistance to a chemical or a chemical class can develop after only three or four applications, as has been seen with the synthetic pyrethroids. High, uncontrolled populations of the yellow aphid complex, especially late in the season, cause damage by removing large amounts of carbohydrates from the trees, reducing the current crop, as well as the bloom the following year. This may reduce yields by 50–75% over a 5–year period. The black pecan aphid causes more serious and immediate damage, by injecting a toxin during feeding which causes leaflet abortion. Heavy infestations can defoliate entire orchards in 7–10 days, with devastating effects lasting at least 2 years.

The Applicant states that pymetrozine is necessary to control aphids and avoid significant economic losses in pecan production. The available materials do not provide adequate control, and pymetrozine has the added benefit of providing another mode of action to help forestall complete resistance development. The Applicant also states that without newer efficacious materials, the black pecan aphid will ultimately threaten the long-term economic viability of commercial pecan production.

EPA has authorized under FIFRA section 18 the use of pymetrozine on pecans for control of yellow pecan aphids, Blackmargined aphids and black pecan aphids in Georgia. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of pymetrozine in or on pecans. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance 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 exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6). Although this tolerance will expire and is revoked on December 31, 2002, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on pecans 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 a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether pymetrozine meets EPA's registration requirements for use on pecans or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of pymetrozine by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Georgia to use this pesticide on this crop 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 exemption for pymetrozine, 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 pymetrozine and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of pymetrozine in or on pecans at 0.020 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance 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. To estimate the acute dietary risk from the exposure of pymetrozine for infants, children and the general population, an UF of 300 is appropriate due to the use of a LOAEL to estimate the toxicological endpoint.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (aRfD or cRfD) 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 pymetrozine used for human risk assessment is shown in the following Table 1:

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF*1 and Level of Concern for Risk Asessment	Study and Toxicological Effects
Acute dietary Females 13–50 years of age	NOAEL = 10 mg/kg UF = 100 Acute RfD = 0.10 mg/kg	FQPA SF = 3 aPAD = 0.033 mg/kg	Rabbit developmental study LOAEL = 75 mg/kg based on increased incidence of skeletal anomalies
Acute dietary Infants, children	LOAEL = 125 mg/kg UF = 300 Acute RfD = 0.42 mg/kg	FQPA SF = 3 aPAD = 0.14 mg/kg	Acute neurotoxicity study LOAEL =125 mg/kg based on decreased body temperature, decreased motor activity and fuctional observational battery (FOB) parameters associated with decreased activity
Acute dietary General population	LOAEL = 125 mg/kg UF = 300 Acute RfD = 0.42 mg/kg	FQPA SF = 1 aPAD = 0.42 mg/kg	Acute neurotoxicity study LOAEL = 125 mg/kg based on decreased body temperature, decreased motor activity and fuctional observational battery (FOB) parameters associated with decreased activity
Chronic dietary Females 13–50 years of age, infants, and children	NOAEL = 0.377 mg/kg/day UF = 100 Chronic RfD = 0.0038 mg/kg/day	FQPA SF = 3 cPAD = 0.0013 mg/kg/day	Rat chronic feeding study LOAEL = 3.76 mg/kg/day based on liver hypertrophy and pathology supported by the rat chronic feeding and multigeneration reproduction studies and dog subchronic and chronic studies
Chronic dietary General population	NOAEL = 0.377 mg/kg/day UF = 100 Chronic RfD = 0.0038 mg/kg/day	FQPA SF = 1 cPAD = 0.0038 mg/kg/day	Rat chronic feeding study LOAEL = 3.76 mg/kg/day based on liver hypertrophy and pathology supported by the rat chronic feeding and multigeneration reproduction studies and dog subchronic and chronic studies
Short-term dermal (1 to 7 days)	None	None	Rat dermal toxicity - no effects at the highest dose tested (HDT)
Intermediate-term dermal (1 week to several months)	None	None	Rat dermal toxicity - NOAEL at the HDT
Long-term dermal (several months to life-time)	None	None	None
Short-term inhalation (1 to 7 days) (residential)	Oral study NOAEL = 10 mg/kg/day Inhalation absorption rate = 100%	LOC for MOE = 100 (residential)	Rabbit developmental study LOAEL = 75 mg/kg based on reduced body weight gain, food consumption, and feed efficiency. Also increased skeletal anomalies in pups
Intermediate-term inhalation (1 week to several months) (residential)	Oral study NOAEL = 0.377 mg/kg/day Inhalation absorption rate = 100%	LOC for MOE = 100 (residential)	Rat chronic feeding study LOAEL = 3.76 mg/kg/day based on liver hypertrophy and pathology supported by the rat chronic feeding and multigeneration reproduction studies and dog subchronic and chronic studies
Long-term inhalation (several months to life-time)	None	None	None

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF*1 and Level of Concern for Risk Asessment	Study and Toxicological Effects
Cancer (oral, dermal, inhalation)	Q_1^* = 0.0119 (mg/kg/day)$^{-1}$	LOC = 1 x 10^{-6}	"Likely human carcinogen" based on combined (benign hepatoma and/or carcinomas) liver tumors

* 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 180.556) for the residues of pymetrozine, in or on tuberous and corm vegetables (crop group 1), cucurbit vegetables (crop group 8) and fruiting vegetables (crop group 9). Risk assessments were conducted by EPA to assess dietary exposures from pymetrozine 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: it was assumed that 100% of the all crops were treated resulting in tolerance level residues on all crops.

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: it was assumed that 100% of the all crops were treated resulting in tolerance level residues on all crops.

iii. *Cancer.* In conducting this cancer 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 cancer exposure assessments: use of average field trial residue values and percent crop treated (PCT) data were used for truberous and corm vegetables, cucurbit vegetables, and fruiting vegetables.

iv. *Anticipated residue and PCT 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 PCT as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows: Tuberous and corm vegetables, 20%; cucurbit vegetables, 16% except cucumbers (10%); squash (8%); melons (25%); pumpkins (10%); zucchini (10%); and fruiting vegetables, 11% except, tomatoes (12%); peppers (8%); eggplant (6%). It was assumed that 100% of the pecan crop was treated.

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 pymetrozine may be applied in a particular area.

a. *Dietary exposure from drinking water.* The Agency lacks sufficient

monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for pymetrozine 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 pymetrozine.

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 ground water. 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 (DWLOC) 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 pymetrozine, they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models, the EECs of pymetrozine for acute exposures are estimated to be 4.0 parts per billion (ppb) for surface water and 0.02 ppb for ground water. The EECs for chronic exposures are estimated to be 2.3 ppb for surface water and 0.02 ppb for ground water.

b. *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). Currently, pymetrozine is not registered for use on any sites that would result in residential exposure.

c. *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 pymetrozine 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, pymetrozine 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 pymetrozine 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 data base 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 toxicity was observed only at maternally toxic dose levels: maternal NOAEL: 30 mg/kg/day, LOAEL: 100 mg/kg/day (reduced body weight gains and food consumption); developmental NOAEL: 100 mg/kg/day, LOAEL: 300 mg/kg/day (increased incidence of skeletal anomalies). In the rabbit, developmental toxicity was also observed only at maternally toxic dose levels: (maternal NOAEL: 10 mg/kg/day, LOAEL: 75 mg/kg/day reduced body weight gains and reduced food consumption and efficiency); developmental NOAEL: 10 mg/kg/day, LOAEL: 75 mg/kg/day (increased incidence of skeletal anomalies).

iii. *Reproductive toxicity study.* In the rat reproduction study, systemic/ developmental toxicity was observed in the pups at parentally toxic dose levels (parental systemic NOAEL: 1.4 mg/kg/ day for males, 1.6 mg/kg/day for females, LOAEL: 13.9 mg/kg/day for males, 16.0 mg/kg/day for females (liver effects in the F0 and F1 males); offspring systemic/developmental NOAEL: 13.9 mg/kg/day for males, 16.0 mg/kg/day for females, LOAEL: 136.9 mg/kg/day for males, 151.6 mg/kg/day for females (decreased pup weight and delay in eye opening in both F1 and F2 litters). There was no reproductive toxicity at dose levels up to 136.9 mg/ kg/day for males and 151.6 mg/kg/day for females.

iv. *Prenatal and postnatal sensitivity.* Based on the results of the developmental and reproduction studies, there is no indication of increased sensitivity in rats or rabbits to *in utero* and/or postnatal exposure to pymetrozine.

v. *Neurotoxicity.* Acute and subchronic neurotoxicity studies are available for pymetrozine. The acute neurotoxicity study did not establish a NOAEL for effects on body temperature, FOB parameters or motor activity. In the subchronic neurotoxicity study, stereotypy in males and tiptoe gate or walking on toes in females were observed. The frequency and magnitude of these effects were low. Before any regulatory decision based on the conclusion that pymetrozine exerts a direct effect on the nervous system, a confirmatory study that more definitively establishes that pymetrozine causes stereotypy in males (head moving and excessive sniffing) and tiptoe gait in females is needed. The Agency has requested a developmental neurotoxicity study in rats be conducted.

vi. *Conclusion.* Although there was no indication of increased susceptibility in the existing prenatal and postnatal studies, the 10x FQPA safety factor has been reduced to 3x because there is a data gap for a developmental neurotoxicity study. The FQPA safety factor for pymetrozine is applicable to females aged 13–50 years, infants, children aged 1–6 years, and children aged 7–12 years for all exposure scenarios.

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 ground water are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to pymetrozine 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 pymetrozine 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 pymetrozine will occupy 2% of the aPAD for the U.S. population, 5% of the aPAD for females 13 years and older, 1% of the aPAD for all infants and 3% of the aPAD for children 1–6 years old, the children subpopulation at greatest exposure. In addition, despite the potential for acute dietary exposure to pymetrozine in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of pymetrozine in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.— AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO PYMETROZINE

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
General U.S. population	0.42	2	4.0	0.02	15,000
Females aged 13–50 years	0.033	5	4.0	0.02	940
All infants	0.14	1	4.0	0.02	1,400
Children aged 1–6 years	0.14	3	4.0	0.02	1,400

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to pymetrozine from food will utilize 12% of the cPAD for the U.S. population, 29% of the cPAD for females 13 years and older, 23% of the cPAD for all infants, and 74% of the cPAD for children 1–6 years, the children subpopulation with greatest exposure. There are no residential uses for pymetrozine that result in chronic residential exposure to pymetrozine. In addition, despite the potential for chronic dietary exposure to pymetrozine in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of pymetrozine in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO PYMETROZINE

Population subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.0038	12	2.3	0.02	120
Females aged 13–50	0.0013	29	2.3	0.02	30
All infants	0.0013	23	2.3	0.02	10
Children aged 1–6 years	0.0013	74	2.3	0.02	3

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). Pymetrozine is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

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). Pymetrozine is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

5. *Aggregate cancer risk for U.S. population.* Using the exposure assumptions described in this unit for cancer exposure, EPA has concluded that exposure to pymetrozine from food will result in a estimated risk of 1.2×10^{-7} for the U.S. population. There are no residential uses for pymetrozine that result in residential exposure to pymetrozine. In addition, despite the potential for dietary exposure to pymetrozine in drinking water, after calculating a DWLOC and comparing it to conservative model EECs of pymetrozine in surface and ground water, EPA does not expect the aggregate exposure to exceed 1×10^{-6}, as shown in the following Table 4:

TABLE 4.—AGGREGATE CANCER RISK ASSESSMENT FOR PYMETROZINE

Population Subgroup	Q1*(mg/kg/day)–1	Estimated Cancer Risk (Food + Non-dietary)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Cancer Risk DWLOC (ppb)
General U.S. population	0.0119	1.2 10^{7}	2.3	0.02	3

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 pymetrozine residues.

V. Other Considerations

A. Analytical Enforcement Methodology

The Agency has evaluated and accepted Method AG–643 (HPLC/UV) as a tolerance enforcement method for a number of plant commodities, including cucurbit vegetables, fruiting vegetables, and tuberous and corm vegetables. This method has a limit of quantitation (LOQ) of 0.02 ppm. In data submitted to support a pending petition to establish tolerances of pymetrozine in cotton commodities (PP 8F4984), the registrant has indicated that this method produces acceptable recovery of pymetrozine from refined cottonseed oil. Based on this, the Agency will assume that Method AG–643 is adequate for enforcement of tolerances for residues of pymetrozine in pecan nutmeat for purposes of this section 18 only.

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 maximum residue levels (MRLs) established for pymetrozine. There are provisional MRLs in Germany for hops (10 ppm) and potatoes (0.02 ppm), and the European Union is currently evaluating a proposed tolerance of 5 ppm on hops. There are no international residue limits that affect this section 18 exemption.

C. Conditions

Maximum application rate per application is 0.125 lbs active ingredient per acre. A maximum of 0.25 lbs active ingredient per acre may be applied per year. A minimum of 7 days between applications is required. A 14–day pre-harvest interval (PHI) is required. For the proposed section 18 use on pecans there are no rotational crop issues since pecans are not rotated to another crop.

VI. Conclusion

Therefore, the tolerance is established for residues of pymetrozine, 1,2,4-triazin-3(2H)-one,4,5-dihydro-6-methyl-4-[(3-pyridinylmethylene)amino], in or on pecans at 0.020 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–301106 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 May 14, 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–301106, 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 a time-limited tolerance 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 other 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: March 2, 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 180.556 is amended by revising paragraph (b) to read as follows:

§ 180.556 Pymetrozine; tolerance for residues.

* * * * *

(b) *Section 18 emergency exemptions.* A time-limited tolerance is established for residues of the insecticide pymetrozine, 1,2,4-triazin-3(2H)-one,4,5-dihydro-6-methyl-4-[(3-pyridinylmethylene)amino] in connection with use of the pesticide under the section 18 exemption granted by EPA. The time-limited tolerance will expire and is revoked on the date specified in the following table:

Commodity	Parts per million	Expiration/ Revocation Date
Pecan	0.020	December 31, 2002

* * * * *

[FR Doc. 01–6328 Filed 3–13–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301108; FRL–6774–9]

RIN 2070–AB78

Imazethapyr; Time-Limited Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for the combined residues of imazethapyr, as its ammonium salt, and its metabolite in or on rice, grain; rice, straw; rice hulls, and rice, bran. BASF requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDC), as amended by the Food Quality Protection Act (FQPA) of 1996. These tolerances will expire on January 1, 2003.

DATES: This regulation is effective March 14, 2001. Objections and requests for hearings, identified by docket control number OPP–301108, must be received by EPA on or before May 14, 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 VI.. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301108 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Daniel J. Rosenblatt, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5697; e-mail address: rosenblatt.dan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/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–301108. 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

In the **Federal Register** of September 27, 2000 (65 FR 58074) (FRL–6744–6), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a as amended by the FQPA of 1996 (Public Law 104–170) announcing the filing of a pesticide petition (PP OF6186) for tolerance by American Cyanamid. This company has now merged with BASF Corporation. This notice included a summary of the petition prepared by American Cyanamid, the initial registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.447 be amended by establishing a tolerance for the combined residues of the herbicide imazethapyr, 2-[4,5-dihydro-4-methyl-4-(1- methylethyl)-5-oxo-1H-imidazol-2-yl]-5-ethyl-3-pyridine-carboxylic acid) as its free acid or its ammonium salt (calculated as the acid), and its metabolite 2-[4,5-dihydro-4-methyl-4-(1- methylethyl-5-oxo-1H-imidazol-2-yl]-5-(1-hydroxyethyl)3-pyridinecarboxylic acid both free and conjugated in or on the raw agricultural commodity (RAC) rice. In this time-limited tolerance rule, EPA is promulgating tolerances for rice grain at 0.3 part per million (ppm), rice straw at 0.2 ppm, rice hulls at 1.5 ppm and rice bran at 2.5 ppm. These tolerances will expire on January 1, 2003. Establishing a time-limited tolerance will permit the EPA to evaluate confirmatory data that has not yet been fully evaluated. .

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...."

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).

III. Aggregate Risk Assessment and Determination of Safety

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 imazethapyr and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for the combined residues of imazethapyr (2-[4,5-dihydro-4- methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-ethyl-3-pyridine carboxylic acid and 2- [4,5-dihydro-4-methyl-4-(1-methyethyl-5-oxo-1H-imidazol-2-yl]-5-(1-hydroxyethyl)-3-pyridine carboxylic acid (free or conjugated) on rice grain, rice straw, rice hulls, and rice bran. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by the combined residues of imazethapyr (2-[4,5-dihydro-4-methyl-4-(1- methylethyl)-5-oxo-1H-imidazol-2-yl]-5-ethyl-3-pyridine carboxylic acid and 2-[4,5-dihydro- 4-methyl-4-(1-methyethyl-5-oxo-1H-imidazol-2-yl]-5-(1-hydroxyethyl)-3-pyridine carboxylic acid (free or conjugated) are discussed below. The toxicological data considered in support of the proposed tolerances include:

1. Several acute toxicology studies placing technical-grade imazethapyr in Toxicity Category III and Toxicity Category IV.

2. A 1-year feeding study with dogs fed diets containing 1, 1,000, 5,000, or 10,000 ppm with a systemic no-observed adverse effect level (NOAEL) of 1,000 25 milligrams/kilogram/day (mg/kg/day) based on decreased packed cell volume, hemoglobin, and erythrocytes in the blood of female dogs at the 5,000 ppm 125 mg/kg/day dose level.

3. A 78–week carcinogenicity study in mice fed diets containing 0, 1,000, 5,000, or 10,000 ppm (equivalent to 0, 150, 750, or 1,500 mg/kg/day) with a systemic NOAEL of 5,000 ppm based on decreased body weight gain in both sexes at the 10,000 ppm dose level. No carcinogenic effects were observed under the conditions of the study.

4. A 2–year chronic feeding/carcinogenicity study in rats fed diets containing 0, 1,000, 5,000, 10,000 ppm (equivalent to 0, 50, 250, or 500 mg/kg/day) with no treatment-related systemic or carcinogenic effects observed under the conditions of the study.

5. A multi-generation reproduction study in rats fed diets containing 0, 1,000, 5,000, or 10,000 ppm (equivalent to 0, 50, 250, or 500 mg/kg/day) with no treatment-related systemic or reproductive effects observed under the conditions of the study.

6. Developmental toxicity studies in rats and rabbits with no developmental toxicity observed under the conditions of the studies at dose levels up to and including the highest dose tested (HDT) (1,125 mg/kg/day in rats and 1,000 mg/kg/day in rabbits. In the rat prenatal developmental study, the maternal (systemic) NOAEL was 375 mg/kg/day based on clinical signs of toxicity seen in dams at the LOAEL of 1,125 mg/kg/day. The developmental (fetal) NOAEL was 1,125 mg/kg/day HDT. The developmental LOAEL was not established in this study. In a prenatal developmental study in rabbits, the maternal (systemic) NOAEL was 300 mg/kg/day based on maternal deaths observed at the LOAEL of 1,000 mg/kg/day HDT. The developmental (fetal) NOAEL was 1,000 mg/kg/day HDT. In this study, the developmental LOAEL was not established. In a 2–generation rat reproduction study, the parental and offspring toxicity NOAEL was 500 mg/kg/day. The parental and offspring toxicity LOAEL was not established.

7. Mutagenicity studies include gene mutation assays in bacteria cells (negative) and Chinese hamster ovary cells (no-dose response); structural chromosomal aberrations assays *in vivo* in rat bone marrow cells (negative) and *in vitro* in Chinese hamster ovary cells (positive without activation at levels toxic to cells and negative with activation); and other genotoxic effects (did not induce unscheduled DNA synthesis in rat hepatocytes cultured *in vitro).*

B. Toxicological Endpoints

The dose at which the NOAEL from the toxicology study identified as

appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (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 intra species 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 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 imazethapyr used for human risk assessment is shown in the following Table 1:

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary females 13–50 years of age and general population including infants and children	None	None	A dose and endpoint attributable to a single exposure were not identified from the reviewed and acceptable oral toxicity studies, including both maternal and developmental toxicity in the developmental toxicity studies.
Chronic dietary all populations	NOAEL = 25 mg/kg/day UF = 100 Chronic RfD = .25 mg/kg/day	FQPA SF = 10 cPAD = chronic RfD/FQPA SF = 0.025 mg/kg/day	1–year feeding study—dog LOAEL = 125 mg/kg/day based on decreased packed cell volume, hemoglobin and erythrocytes seen in females.
Short-term dermal (1 to 7 days), and intermediate term dermal (1 week to several months) (Residential)	None	None	EPA concluded that no hazard is identified to support quantifying risk for these exposure scenarios.
Short-term Inhalation (1 to 7 days) (Residential)	Inhalation (or oral) study NOAEL= 300 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 1,000 (Residential)	Rabbit Developmental Study LOAEL = 1,000 mg/kg/day based on maternal deaths seen at the HDT.
Intermediate-Term Inhalation (1 week to several months) (Residential)	Inhalation (or oral) study NOAEL = 300 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 1,000 (Residential)	Rabbit Developmental Study LOAEL = 1,000 mg/kg/day based on maternal deaths seen at the HDT.
Cancer (oral, dermal, inhalation)	EPA determined that a cancer risk assessment is not necessary.		Rat and mouse carcinogenicity studies were negative for carcinogenicity.

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

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.447) for the residues of the herbicide imazethapyr, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-ethyl-3-pyridine carboxylic acid as its ammonium salt, and its metabolite, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H- imidazol-2-yl]-5-(1-hydroxyethyl)-3-pyridine carboxylic acid, both free and conjugated, in or on a variety of raw agricultural commodities including legume vegetables, soybeans, alfalfa, peanuts, corn grain, endive, and lettuce. Risk assessments were conducted by EPA to assess dietary exposures from combined residues of imazethapyr 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. EPA did not perform a quantified acute dietary risk assessment. In acceptable toxicity studies, no appropriate endpoint was identified for this exposure duration.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment 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 chronic exposure assessments: The exposure assessment that supports this time-limited tolerance is conservative. Tolerance level residues, 100 percent crop treated, and default processing factors were assumed for all registered and proposed uses. Percent crop treated estimates and anticipated residue assumptions were not used in this risk assessment.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for imazethapyr 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 imazethapyr.

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 imazethapyr they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models the estimated environmental concentrations (EECs) of imazethapyr for acute exposures are estimated to be 6.34 parts per billion (ppb) for surface water and 2.2 ppb for ground water. The EECs for chronic exposures are estimated to be 6.13 ppb for surface water and 2.2 ppb for ground 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).

Imazethapyr is not registered for use on any sites that would result in residential exposure.

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 imazethapyr 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, imazethapyr 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 imazethapyr 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).

D. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional ten-fold 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 data base 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.

2. *Prenatal and postnatal sensitivity.* The pre- and postnatal toxicology data base for imazethapyr is complete. There is no evidence of increased susceptibility to infants and children.

3. *Conclusion.* There is a complete toxicity data base for imazethapyr and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. There is no evidence of qualitative or quantitative susceptibility to infants and children. No evidence of increased susceptibility was observed in rat and rabbit fetuses following *in utero* exposure in the prenatal developmental toxicity study and also in the 2-generation reproduction study in rats. However, EPA has not concluded its review process regarding application of the additional safety factor for infants and children as to imazethapyr and, therefore, for the purpose of this action will retain the statutory default factor of an additional 10x. Once EPA has the opportunity to complete its review of the data on imazethapyr in this area, the 10x safety factor may be reduced or removed.

E. 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 + residential 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: 2Liter (L)/70 kilogram (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 the pesticide 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 residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* EPA did not select a toxicological endpoint for this exposure duration. A dose and endpoint attributable to a single exposure were not identified from oral toxicity studies. Therefore, no quantified acute risk assessment is necessary.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to imazethapyr from food will utilize 1% of the cPAD for the U.S. population, 3% of the cPAD for All Infants (<1 year) and 3% of the cPAD for Children (1–6 years). There are no residential uses for imazethapyr that result in chronic residential exposure to imazethapyr. There is potential for chronic dietary exposure to imazethapyr in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 2:

TABLE 2.— AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO IMAZETHAPYR

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC parts per billion (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.025	1	6.13	2.2	864
All Infants (<1 year)	0.025	3	6.13	2.2	242
Children (1–6 years)	0.025	3	6.13	2.2	243
Females (13–50 years)	0.025	1	6.13	2.2	743

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).

Imazethapyr is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

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

Imazethapyr is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population.* The rat and mouse carcinogenicity studies were negative for carcinogenicity. In light of these results, EPA determined that a quantified aggregate cancer risk assessment is not necessary.

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 imazethapyr residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Analytical enforcement methods for the purpose of enforcing previously established tolerances for imazethapyr have been published in the Pesticide Analytical Manual Vol-II (PAM-II). CE Determinative and LC/MS methods for the enforcement of the time-limited tolerances for rice have been proposed by the registrant. Independent laboratory validation of these methods have been submitted to EPA. Prior to publication in PAM-II, and upon request, the analytical methods for the rice commodities will be available from the Analytical Chemistry Branch (ACB), BEAD (7503C), Environmental Science Center, 701 Mapes Rd., Fort George G. Meade, MD 20755–5350; contact Francis D. Griffith, Jr.; telephone number: (410) 305–2905; e-mail griffith.francis@epa.gov. The Analytical standards for this method are also available from the EPA National Pesticide Standard Repository at the same location.

B. International Residue Limits

This time-limited tolerance action is not incompatible with that taken by Codex, Canada, or Mexico as there are no established tolerances by those entities for imazethapyr on rice.

C. Conditions

Based on confined rotational crop data, crop rotational intervals of 4 months for wheat and 9.5 months for field corn are necessary. A 45-day pre harvest interval is required.

V. Conclusion

Therefore, the tolerances are established for combined residues of imazethapyr (2- [4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-ethyl-3-pyridine carboxylic acid) and 2-[4,5-dihydro-4-methyl-4-(1-

methylethyl-5-oxo-1H-imidazole-2-yl]-5-(1-hdroxyethyl)-3-pyridine carboxylic acid (free or conjugated), in or on rice grain, rice straw, rice hulls, and rice bran.

VI. 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–301108 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 May 14, 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 VI.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 docket control number OPP–301108, 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).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. 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 petition under FFDCA section 408(d), 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, 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.

VIII. 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: March 1, 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 180.447 is amended as follows:

i. By adding a heading to paragraph (a), designating the text following the heading as paragraph (a)(1), and alphabetically adding commodities to the table in newly designated paragraph (a)(1);

ii. By redesignating paragraphs (b) and (c) as paragraphs (a)(2) and (a)(3);

iii. By adding and reserving new paragraphs (b) and (c); and

iv. By adding a heading to paragraph (d).

The additions read as follows:

§ 180.447 Imazethapyr, ammonium salt; tolerance for residues.

(a) *General.* (1) * * *

Commodity	Parts per million	Expiration/ Revocation Date
* * *	* *	* *
Rice, bran	2.5	1/1/03
Rice, grain	0.30	1/1/03
Rice, hulls	1.5	1/1/03
Rice, straw	0.20	1/1/03
* * *	* *	* *

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.*

* * *

[FR Doc. 01–6329 Filed 3–13–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301103; FRL–6766–6]

RIN 2070–AB78

Pyriproxyfen; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of the insecticide, pyriproxyfen [2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine] in or on all food items in food handling establishments where food and food products are held, processed and/or prepared at 0.1 ppm. McLaughlin Gormley King Company requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective March 14, 2001. Objections and requests for hearings, identified by docket control number OPP–301103, must be received by EPA on or before May 14, 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 VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301103 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joseph Tavano, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6411; and e-mail address: tavano.joseph@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected

categories and entities may include, but are not limited to:

Categories	NAICS	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_00/Title_40/40cfr http://www.access.gpo.gov/nara/cfr/cfrhtml—00/Title—40/40tab—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–301103. 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

In the **Federal Register** of February 29, 2000 (65 FR 16608) (FRL–6493–8), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP) for tolerance by McLaughlin Gormley king Company, 8810 Tenth Avenue North, Minneapolis, MN 55427–4372. This notice included a summary of the petition prepared by McLaughlin Gormley King Company, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.510 be amended by establishing a tolerance for residues of the insecticide, Pyriproxyfen, [2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine], in or on food commodities at 0.5 part per million (ppm).

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...."

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).

III. Aggregate Risk Assessment and Determination of Safety

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 and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of pyriproxyfen on all food items in food handling establishments where food and food products are held, processedand/or prepared at 0.1 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by pyriproxyfen are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.— SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90-Day oral toxicity rodents	NOAEL = 23.49 mg/kg/day in males and 27.68 mg/kg/day in females LOAEL = 117.79 mg/kg/day in males and 141.28 mg/kg/day in females based on higher mean total cholesterol and phospholipids, decreased mean RBCs, hematocrit and hemoglobin counts and increased relative liver weight.
870.3150	90-Day oral toxicity in dogs	NOAEL = 100 mg/kg/day LOAEL = 300 mg/kg/day based on increased absolute and relative liver weight in males and hepatocellular hypertrophy in females. These findings were also observed at 1000 mg/kg/day and may represent adaptive changes at both 300 mg/kg/day and the limit dose of 1000 mg/kg/day .
870.3200	21-Day dermal toxicity in . rats	NOAEL = >1,000 mg/kg/day for systemic effects limit dose. LOAEL = for systemic effects was not established in this study. No dermal or systemic toxicity at the limit dose.
870.3700a	Prenatal developmental in rats	Maternal NOAEL = 100 mg/kg/day LOAEL = 300 mg/kg/day based on increased incidences in mortality and clinical signs at 1,000 mg/kg/day with decreases in food consumption, body weight, and body weight gain together with increases in water consumption at 300 and 1,000 mg/kg/day . Developmental NOAEL = 300 mg/kg/day LOAEL = 1,000 mg/kg/day based on increased incidences of skeletal variations and unspecified visceral variations at 1,000 mg/kg/day.
870.3700b	Prenatal developmental in rabbits	Maternal NOAEL = 100 mg/kg/day LOAEL = 300 mg/kg/day based on based on premature delivery/abortions, soft stools, emaciation, decreased activity and bradypnea. Developmental NOAEL = 300 mg/kg/day LOAEL: only 4 litters examined at 1,000 mg/kg/day [HDT] without effects.
870.3800	Reproduction and fertility effects	Parental/Systemic NOAEL = 1,000 mg/kg/day LOAEL = 5,000 mg/kg/day based on based on decreased body weight, weight gain and food consumption in both sexes and both generations. Increased liver weight in both sexes of the F1 generation and liver and kidney histopathology in F1 males. Reproductive NOAEL = 5,000 ppm [HDT]. Offspring NOAEL = 1,000 ppm. LOAEL = 5,000 ppm based on decreased pup body weight on lactation days 14 and 21.
870.4100	Chronic toxicity dogs	NOAEL = 100 mg/kg/day LOAEL = 300 mg/kg/day based on based on decreased weight gain, increased absolute and relative liver weight, mild anemia, increased cholesterol and triglycerides in both sexes and slight anemia in males.
870.4200	Carcinogenicity mice	NOAEL = 600 ppm
870.4300	2-Year Chronic Feeding/ Oncogenicity rats	LOAEL = 3,000 ppm based on renal lesions in both sexes. No statistically significant increase in tumor incidence relative to controls were observed in either sex at any dose up to 3,000 ppm [HDT]. NOAEL = 35.1 mg/kg/day for females and >138 mg/kg/day for males. LOAEL = 182.7 mg/kg/day for females based on decrease of 16.9% in body weight gain at 3,000 ppm. No evidence of carcinogenic response.
870.5100 and 870.5265	Gene Mutation Assay(Ames Test)/Reverse Mutation	Negative for induction of gene mutation measured as the reversion to histidine protrophy of 5 *S. typhimurium* strains and *E. Coli* WP2 uvra at doses from 10 to 5,000 µg/plate with and without S-9 activation. The highest dose was insoluble.
870.5300	Gene Mutation Assay Mammalian Cells	Negative for mutagenicity in Chinese hamster V79 cells with and without metabolic activation up to cytotoxic doses [300 µg/mL].
870.5380	Structural Chromosomal Aberration Assay *In vivo* cytogenetics	Nonclastogenic in Chinese hamster ovary cells both with and without S-9 activation up to cytotoxic doses [300 µg/mL].

TABLE 1.— SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.5550	Other Genotoxicity Assays (Unscheduled DNA Synthesis in HeLa cells)	Did not induce an increase in unscheduled DNA synthesis both with and without activation in HeLa cells exposed up to insoluble doses ranging to 6.4 µg/mL [without activation] and 51.2 µg/mL [with activation].
870.7485	Metabolism	Rats were orally dosed with ^{14}C-labeled pyriproxyfen at 2 or 1,000 mg/kg and at repeated oral doses [14 daily doses] of unlabeled pyriproxyfen at 2 mg/kg followed by administration of a single oral dose of labeled pyriproxyfen at 2 mg/kg. Most radioactivity was excreted in the feces [81–92%] and urine [5–12%] over a 7 day collection period. Expired air was not detected. Tissue radioactivity levels were very low [less than 0.3%] except for fat. Examination of urine, feces, liver, kidney, bile and blood metabolites yielded numerous > 20 identified metabolites when compared to synthetic standards. The major biotransformation reactions of pyriproxyfen include: 1. Oxidation of the 4' - position of the terminal phenyl group; 2. Oxidation at the 5' - position of pyridine; 3. Cleavage of the ether linkage and conjugation of the resultant phenols with sulfuric acid.

B. Toxicological Endpoints

The NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, 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 intra species 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 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 pyriproxyfen used for human risk assessment is shown in the following Table 2:

TABLE 2.— SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR PYRIPROXYFEN FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary general population including infants and children	Not Applicable	Not Applicable	There were no effects that could be attributed to a single exposure (dose) in oral toxicity studies including the developmental toxicity studies in rats and rabbits.
Chronic Dietary all populations	NOAEL = 35.1 mg/kg/day; UF = 100; Chronic RfD = 0.35 mg/kg/day	FQPA SF = 1; cPAD = 0.35/1 = 0.35 mg/kg/day	Combined/chronic toxicity - rat: LOAEL = 182.7 mg/kg/day based on decreased weight gain in female rats.
Long-Term Dermal (several months to lifetime) (Residential)	NOAEL= 35.1 mg/kg/day	LOC for MOE = 100	Combined/chronic toxicity - rat: LOAEL = 182.7 mg/kg/day based on decreased weight gain in female rats.
Long-Term Inhalation (several months to lifetime) (Residential)	NOAEL= 35.1 mg/kg/day	LOC for MOE = 100	Combined/chronic toxicity - rat: LOAEL = 182.7 mg/kg/day based on decreased weight gain in female rats.

TABLE 2.— SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR PYRIPROXYFEN FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Cancer (oral, dermal, inhalation)	"Group E" human carcinogen	Not Applicable	There is no evidence of carcinogenic potential. Therefore, a cancer risk assessment is not required.

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

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.510 (a) for the residues of pyriproxyfen, in or on the following raw agricultural commodities: pome fruits (crop group 11) (0.2 ppm), citrus fruits (crop group 10) (0.3 ppm), fruiting vegetables (except cucurbits) (crop group 8) (0.2 ppm), tree nuts (crop group 14) (0.02 ppm), cotton seed (0.05 ppm), cotton gin byproducts (2.0 ppm), almond hulls (2.0 ppm), citrus oil (20 ppm), and citrus pulp, dried (2.0 ppm). In todays action tolerances will be established for the residues of pyriproxyfen in or on all foods at 0.10 ppm as a result of the proposed use of pyriproxyfen in food handling establishments. Risk assessments were conducted by EPA to assess dietary exposures from pyriproxyfen 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. An acute dose and endpoint was not selected for any population subgroup for pyriproxyfen. No effects that could be attributed to a single exposure (dose) were observed in oral toxicity studies including the developmental toxicity studies in rats and rabbits. A dose and endpoint were not identified for acute dietary risk assessment; therefore, the Agency concludes that there is a reasonable certainty of no harm from acute dietary exposure.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment 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. A conservative analysis was conducted using published and recommended tolerance level residues and 100% crop treated assumptions for all commodities. No anticipated residues or percent crop treated estimates were used. The residue levels of all food commodities, except those with existing tolerances, were set at 0.1 ppm. For commodities with tolerances greater than 0.1 ppm, existing tolerance level residues were employed. The cPAD for all population subgroups is 0.35 mg/kg/day. For chronic dietary risk estimates, HED's level of concern is for exposures >100% cPAD. Dietary exposure estimates for the U.S. population and other representative subgroups are presented in the following table 3:

TABLE 3.—SUMMARY OF RESULTS FROM CHRONIC DEEM ANALYSIS OF PYRIPROXYFEN

Subgroups	Exposure (mg/kg/day)	%cPAD
U.S. Population (48 states)	0.003258	0.9
All infants (< 1 year)	0.005538	1.6
Children (1–6 years)	0.008956	2.6
Children (7–12 years)	0.005229	1.5
Females 13–50 yrs	0.002323	0.7
Males 13–19 yrs	0.003158	0.9
Males 20+ yrs	0.002228	0.6
Seniors 55+	0.002233	0.6

The population subgroups listed include those subgroups having sufficient numbers of survey respondents in the CSFII food consumption survey to be considered statistically reliable. The results show that chronic dietary exposure to pyriproxyfen residues from all existing and proposed uses do not exceed HED's level of concern of 100% cPAD. Refinement of residue estimates using %CT corrections and anticipated residue estimates would result in even lower residue estimates.

2. *Dietary exposure from drinking water.* 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 pyriproxyfen 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 pyriproxyfen for acute exposures are estimated to be 0.11 parts per billion (ppb) for surface water and 0.006 ppb for ground water. The EECs for chronic exposures are estimated to be 0.11 ppb for surface water and 0.006 ppb for ground 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).

Pyriproxyfen is currently registered for use in residential non-dietary sites for flea and tick control. Formulations include contact sprays, emulsifiable concentrates, and impregnated materials (pet collars). With the exception of the pet collar uses, consumer use of pyriproxyfen typically results in short-term, intermittent exposures. Hence, chronic residential post-application exposure and risk assessments were conducted to estimate the potential risks from pet collar uses. The risk assessment was conducted using the following assumptions: application rate of 0.58 mg ai/day (product label), average body weight for a 1 to 6 year old child of 10 kg, the active ingredient dissipates uniformly through 365 days (the label instructs to change the collar once a year), and 1% of the active ingredient is available for dermal and inhalation exposure per day (assumption from Draft HED Standard Operating Procedures (SOPs) for Residential Exposure Assessments, 18-DEC-1997). The assessment also assumes an absorption rate of 100%. This is a conservative assumption since the dermal absorption was estimated to be 10% (HED Hazard Identification Assessment Review Committee, 24-OCT-1997). The following Table 4 shows residential exposure and risk Assessment for homeowner use of pet collars:

TABLE 4.—RESIDENTIAL EXPOSURE AND RISK ASSESSMENT FOR HOMEOWNER USE OF PET COLLARS

Population Subgroup	Application Rate[1] mg/day	Average Potential Dose Rate[2] (mg/kg/day)	Chronic Term MOE[3]
Children	0.58	0.00058	61,000
Adults	0.58	0.000081	430,000

[1]Product label: Reg. No. 2382-149 (0.5% pyriproxyfen, ovisterilant pet collar). Application rate = 42 gm collar × 0.5% a.i./collar × 1,000 mg/1 gm × 1/365 days. Collar to be replaced once a year.

[2]Potential Dose Rate (PDR) = Application rate × fraction of ai available for exposure (1%) × absorption rate(100%) × 1/(10 or 71.8 kg bw for children or adults, respectively) (Draft HED Standard Operating Procedures (SOPs) for Residential Exposure Assessments, 18-DEC-1997).

[3]Dermal and Inhalation NOAEL = 35.1 mg/kg/day; MOE = NOAEL/Exposure; Adequate MOE = 100.

The estimated chronic term MOE is 61,000 for children, and 430,000 for adults. The risk estimates indicate that potential risks from pet collar uses do not exceed HED's level of concern (MOEs < 100).

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 pyriproxyfen 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, pyriproxyfen 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 pyriproxyfen 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).

D. 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 data base 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. *Prenatal and postnatal sensitivity.* The oral perinatal and prenatal data demonstrated no indication of increased sensitivity of rats or rabbits to *in utero* and postnatal exposure to pyriproxyfen.

iii. *Conclusion.* The 10X safety factor to protect infants and children was reduced to 1x because (1) the toxicology data base is complete; (2) there is no indication of increased susceptibility of rats or rabbit fetuses to *in utero* and/or postnatal exposure in the developmental and reproductive toxicity studies; (3) a developmental neurotoxicity study is not required; (4) food exposure estimates are unrefined (assuming tolerance level residues and 100% CT) and likely result in an overestimate of the actual dietary exposure; (5) EFED models are used for ground and surface source drinking water exposure assessments resulting in conservative estimates of actual dietary exposures; and (6) the Draft Standard Operating Procedures for Residential Exposure Assessments have been used as the basis for all calculations which normally rely on one or more upper-percentile assumptions and are considered to be protective.

E. 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 + residential 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 the pesticide 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 residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* An acute dietary dose and endpoint was not identified. Thus the risk from acute aggregate exposure is considered to be negligible.

2. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has calculated that the maximum percentage of the cPAD that will be utilized by dietary (food) exposure to residues of pyriproxyfen is 2.6% percent for children (1–6 years). Chronic residential exposure to pyriproxyfen from pet collars is estimated to increase total pyriproxyfen exposure to infants and children only marginally. Despite the potential for exposure to pyriproxyfen in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

EPA bases this determination on a comparison of estimated concentrations of pyriproxyfen in surface and ground water to calculated drinking water levels of comparison. The estimates of pyriproxyfen in surface and ground water are derived from water quality models that use conservative assumptions regarding the pesticide transport from the point of application to surface and ground water. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with the pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impact of pyriproxyfen in food and drinking water as part of the aggregate chronic risk assessment process.

The following table 5 summarizes the quantitative aspects of the aggregate risk assessment for chronic exposure to pyriproxyfen. For chronic exposure to pyriproxyfen in surface and ground water, the DWLOCs are 12,000 µg/L for U.S. population and 3,400 µg/L for children (1–6 years). Estimated average concentrations of pyriproxyfen in surface and ground water are 0.11 ppb and 0.006 ppb, respectively. The estimated average concentrations of pyriproxyfen in surface and ground water are less than EPA's level of concern for pyriproxyfen in drinking water as a contribution to chronic aggregate exposure. Therefore, taking into account present uses and uses proposed in this action, EPA concludes that there is a reasonable certainty that no harm will result to any population subgroup from chronic aggregate exposure to pyriproxyfen residues.

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR CHRONIC EXPOSURE TO PYRIPROXYFEN

Population Subgroup	cPAD mg/kg/day	Exposure mg/kg/day	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population - all seasons	0.35	0.003258	0.11	0.006	12000
All Infants (<1 year)	0.35	0.005538	0.11	0.006	3400
Children (1–6 years)	0.35	0.008956	0.11	0.006	3,400
Children (7–12 years)	0.35	0.005229	0.11	0.006	3,400
Females (13–50 years)	0.35	0.002323	0.11	0.006	10,000
Males (13–19 years)	0.35	0.003158	0.11	0.006	12,000
Males (20+ years)	0.35	0.002228	0.11	0.006	12,000
Seniors (55+)	0.35	0.002233	0.11	0.006	12,000

3. *Short-term risk.* Pyriproxyfen is not expected to pose a short-term risk due to the lack of significant toxicological effects observed.

4. *Intermediate-term risk.* Pyriproxyfen is not expected to pose an intermediate-term risk due to the lack of significant toxicological effects observed.

5. *Aggregate cancer risk for U.S. population.* Pyriproxyfen is classified as Category E: not carcinogenic in two acceptable animal studies and is, therefore, not expected to pose a cancer risk to humans.

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 pyriproxyfen residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Previously, the Agency successfully validated gas chromatography (GC) methods for pyriproxyfen on cotton seed and on pome fruits, citrus fruits, fruiting vegetables, and tree nuts. Biological Test Center (BTC) conducted an Independent Laboratory Validation (ILV) of the proposed enforcement method for tolerances of pyriproxyfen on four representative foods using high performance liquid chromatography (HPLC) with ultraviolet (UV) detection. Sugar, flour, lettuce and butter were selected to represent high sugar content foods, dry foods, high water content foods, and fatty foods, respectively. The limit of quantitation (LOQ) was 0.1 ppm for all foods except butter, which was 0.5 ppm. Sugar, flour, and lettuce samples were fortified at 0.1 and 0.5 ppm. Average recoveries ranged from 89% to 97% for these food samples. Butter was fortified at 0.5 and 2.4 ppm and gave an average recovery of 68%. Some modifications to the analytical method were necessary for the butter samples. With incorporation of these modifications, EPA considers the ILV of the pyriproxyfen (Nylar®) analytical method for food commodities to be successful.

Agency validation of the HPLC method on flour, candy, lettuce, and butter, and of the GC method on liver was requested and completed. EPA concludes these methods are adequate as analytical enforcement methods pending revision of the methods as requested by the Agency laboratory.

Valent submitted data from a study performed by Corning Hazleton Inc. describing the testing of pyriproxyfen through the Food and Drug Administration (FDA) Multiresidue Methods Protocols A, C, D, E, and F found in the Pesticide Analytical Manual Volume I (PAM I), Appendix II. This study was previously reviewed in a memo dated 06-MAY-1997. Pyriproxyfen was recovered from fortified apple and cotton samples through protocols A, C, D, E, and F. The metabolite PYPAC was tested with protocols A, B, C, and D. The multiresidue methods will serve as confirmatory methods for residues of pyriproxyfen. The multiresidue recovery data were sent to the FDA for inclusion in PAM I.

The methods may be requested from: Calvin Furlow, PRRIB, 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, Canadian, or Mexican tolerances for pyriproxyfen residues in or on any food items or raw agricultural commodities (RACs). Maximum residue limits (MRLs) have been proposed for cotton seed, citrus, meat, and edible offal; however, there is no certainty these proposed levels will become official. Therefore, international harmonization is not an issue at this time.

C. Conditions

As a condition of the registration a revised analytical method for foods must be submitted.

V. Conclusion

Therefore, a tolerance is established for residues of pyriproxyfen [2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine], in or on all foods at 0.10 ppm.

VI. 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–301103 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 May 14, 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 issue(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 VI.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 docket control number OPP–301103, 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 issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. 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 petition under FFDCA section 408(d), 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."

VIII. 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: February 28, 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 180.510(a) is amended by designating the text following the heading "General" as paragraph (a)(1), and by adding paragraph (a)(2) to read as follows:

§ 180.510 Pyriproxyfen; tolerances for residues.

(a) *General.* (1) * * *

(2) A tolerance of 0.10 parts per million is established for all foods as a result of the proposed use of NYLAR in food handling establishments where food and food products are held, prepared, processed or served. Application is limited to space, general surface, spot, and/or crack and crevice treatment in food handling establishments where food and food products are held, processed, prepared and served. Space and general surface application may be used only when the facility is not in operation provided exposed food is covered or removed from the area being treated prior to application. Spot, and/or crack and crevice treatment may be used while the facility is in operation provided exposed food is covered or removed from the area being treated prior to application. Food contact surfaces should be thoroughly washed with an effective cleaning compound and rinced with potable water after use of the product. To assure safe use of this additive, its label and labeling shall conform to that registered with the U.S. Environmental Protection Agency, and shall be used in accordance with such label and labeling.

* * * * *

[FR Doc. 01–6330 Filed 3–13–01; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 410, 414, 424, 480, and 498

[HCFA–3002–CN]

RIN 0938–AI96

Medicare Program; Expanded Coverage for Outpatient Diabetes Self-Management Training and Diabetes Outcome Measurements

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

ACTION: Final rule; correction and confirmation of effective date.

SUMMARY: In the December 29, 2000 issue of the **Federal Register** (65 FR 83130), we published a final rule that implements section 4105 of the Balanced Budget Act by expanding Medicare coverage for outpatient diabetes self-management training and establishes outcome measurements for evaluating the improvement of the health status of Medicare beneficiaries with diabetes. The final rule provided for a 60-day delay from the publication date in implementing the expanded coverage of the diabetes training; that is, February 27, 2001. We unknowingly delayed forwarding our report on the final rule to the Congress for review under 5 U.S.C. 801(a) at the time we published the final rule. This document reaffirms that the final rule, and its expansion of Medicare coverage for outpatient diabetes self-management training, went into effect on February 27, 2001, notwithstanding the delay in forwarding our report to the Congress. It also corrects cost assumptions that were overstated in the final rule.

DATES: The effective date of the final rule published December 29, 2000 (65 FR 83130), is confirmed as February 27, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Stojak, (410) 786–6939.

SUPPLEMENTARY INFORMATION: In the December 29, 2000 issue of the **Federal Register** (65 FR 83130), we published a final rule that implements section 4105 of the Balanced Budget Act by expanding Medicare coverage for outpatient diabetes self-management training and establishes outcome measurements for evaluating the improvement of the health status of Medicare beneficiaries with diabetes. Under the congressional review provisions of 5 U.S.C. Chapter 8, the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs determined that the final rule was a "major rule" as defined in 5 U.S.C. 804(2). In accordance with 5 U.S.C. 801(a)(3), we provided a 60-day delay period for the final rule's effective date, so that the final rule was effective on February 27, 2001.

We recently learned that we inadvertently overlooked forwarding our report to the Congress under 5 U.S.C. 801(a) at the time of the final rule's publication. The Congress subsequently received our report on February 13, 2001. Therefore, under 5 U.S.C. 801(a)(3), the general consequence of this delay would be that the effective date would no longer be February 27, 2001, but instead would be April 14, 2001, which is 60 days after the Congress received our report.

Under 5 U.S.C. 808(2), however, we find, for good cause, that a second, additional 60-day delay in the final rule's effective date would be contrary to the public interest. There has already been one 60-day effective-date delay period. As we have noted, our failure to submit the report to Congress on a timely basis was an inadvertent administrative oversight. We have reviewed and reinforced our administrative procedures to ensure that this does not occur again. An additional 60-day delay in the effective date would directly harm Medicare beneficiaries with diabetes who are eligible for the self-management training. Under the terms of the final rule, Medicare coverage for persons with diabetes was expanded on February 27, 2001. An additional 60-day delay in the effective date would therefore delay this expansion in coverage and preclude eligible beneficiaries with diabetes from receiving needed training for another 60 days. Medicare beneficiaries who have diabetes and are eligible for training should not be disadvantaged as a result of an administrative oversight. All interested parties have supported this expansion of Medicare coverage for beneficiaries with diabetes. Moreover, while the final rule was determined at its issuance to be a "major" economic rule (and thus subject to the 60-day minimum effective date), our actuaries have recently reviewed the impact analysis again. Based on this recent review, our actuaries believe that some of their cost assumptions overstated the likely costs of the rule. In particular, the actuaries believe that their previous analysis overstated the likely level of utilization by beneficiaries of the new benefit. The current estimate by our actuaries is that the final rule does not reach the $100 million threshold for a major economic rule. Indeed, it will have an annual impact of less than $100 million in any one year ($45 million in FY2001, $90 million in FY2002, $80 million in FY2003, $95 million in FY2004, and $95 million in FY2005).

The Office of Management and Budget (OMB) stated in its March 30, 1999 government-wide guidance to agencies on the Congressional Review Act (OMB Memorandum M–99–13), that use of the waiver authority in section 808(2) could be considered, on a case-by-case basis, in the case of final rules for which the rulemaking agency had previously requested public comment (as occurred in this case). Based on the OMB Memorandum, and for the reasons we have outlined above, we find that delaying the effective date for this major final rule for another 60 days would be contrary to the public interest, and therefore, find that there is good cause for invoking Section 808(2) and retaining the final rule's original effective date of February 27, 2001. In arriving at this decision, we have consulted with OMB, which concurs with this conclusion.

Authority: Section 1848 of the Social Security Act (42 U.S.C. 1395w–4).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 8, 2001.

Brian P. Burns,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 01–6310 Filed 3–13–01; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–333; MM Docket No. 98–112, RM–9027, RM–9268, RM–9384]

Radio Broadcasting Services; Anniston and Ashland, AL, and College Park, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of petition for reconsideration.

SUMMARY: This document denies a Petition for Reconsideration filed by Preston Small directed to the *Report and Order* in this proceeding which substituted Channel 263C3 for Channel 263C at Anniston, Alabama, allotted Channel 264A to Ashland, Alabama, reallotted Channel 263C3 to College Park, Georgia, and modified the license of Station WHMA to specify operation on Channel 263C3 at College Park. *See* 65 FR 31498, May 18, 2000.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 98–112, adopted February 7, 2001, and released February 9, 2001. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3805, 1231 M Street, NW., Washington, DC 20036.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–5829 Filed 3–13–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 230

[Docket No. 001120325-1053-02, I.D. 122800B]

RIN 0648-AO77

Whaling Provisions: Aboriginal Subsistence Whaling Quotas

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

ACTION: Aboriginal subsistence whaling quota.

SUMMARY: NMFS announces the 2001 aboriginal subsistence whaling quota for gray whales. For 2001, the quota is zero gray whales landed, but may be revised later in the year. This quota governs the harvest of gray whales by members of the Makah Indian Tribe (Tribe).

DATES: Effective March 14, 2001.

ADDRESSES: Office of Protected Resources, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Cathy Campbell, (202) 482–2652.

SUPPLEMENTARY INFORMATION: Aboriginal subsistence whaling in the United States is governed by the Whaling Convention Act (16 U.S.C. 916 *et seq.*) and rules at 50 CFR part 230. The rules requires the Secretary of Commerce to publish, at least annually, aboriginal subsistence whaling quotas and any other limitations on aboriginal subsistence whaling deriving from regulations of the International Whaling Commission (IWC).

At the 1997 Annual Meeting of the IWC, the Commission set quotas for aboriginal subsistence use of gray whales from the Eastern stock in the North Pacific. This action by the IWC thus authorized aboriginal subsistence whaling by the Tribe for gray whales, and is discussed in greater detail in the **Federal Register** notification (64 FR 28413, May 26, 1999).

On June 9, 2000, the United States Court of Appeals for the Ninth Circuit ruled that the Department of Commerce's environmental assessment (EA) under the National Environmental Policy Act (NEPA) should have been completed before agreeing to request a gray whale quota from the IWC. The Court ordered the agency to prepare a new NEPA document under circumstances that would ensure an objective evaluation of the environmental consequences of the gray whale harvest.

NOAA completed a draft EA on January 12, 2001 and solicited public comments. NMFS is currently preparing a final EA. NOAA set the 2000 quota at zero (65 FR 75186) and is now setting the 2001 quota at zero pending completion of the NEPA analysis.

Dated: March 5, 2001.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–6350 Filed 3–13–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 000913257–0257–01; I.D. 081800D]

RIN 0648–AO52

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Prohibition of Trap Gear in the Royal Red Shrimp Fishery in the Gulf of Mexico

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

ACTION: Emergency interim rule; extension of expiration date.

SUMMARY: An emergency interim rule that prohibits the use of trap gear in the royal red shrimp fishery within the exclusive economic zone (EEZ) of the Gulf of Mexico is in effect through March 18, 2001. NMFS extends that emergency interim rule for an additional 180 days. The intended effect is to prevent gear conflict and overfishing in the royal red shrimp fishery.

DATES: The expiration date for the emergency interim rule published at 65 FR 56500, September 19, 2000, is extended from March 18, 2001, through September 14, 2001.

ADDRESSES: Copies of documents supporting this action, such as the economic analysis and environmental assessment, may be obtained from, the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, telephone: 727–570–5325; fax: 727–570–5583.

Comments on any ambiguity or unnecessary complexity arising from the language used in this emergency interim rule should be directed to Rod Dalton,

Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Dr. Steve Branstetter, telephone: 727–570–5305, fax: 727–570–5583, e-mail: Steve.Branstetter@noaa.gov.

SUPPLEMENTARY INFORMATION: The shrimp fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and was approved and implemented by NMFS, under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), through regulations at 50 CFR part 622.

In response to a request from the Council, NMFS published an interim rule (65 FR 56500, September 19, 2000), under section 305(c)(1) of the Magnuson-Stevens Act, that prohibits the use of trap gear in the royal red shrimp fishery within the EEZ of the Gulf of Mexico. This action was, and remains, necessary to prevent gear conflict and overfishing in the royal red shrimp fishery.

Under section 305(c)(3)(B) of the Magnuson-Stevens Act, NMFS may extend the effectiveness of an emergency interim rule for one additional period of 180 days, provided the public has had an opportunity to comment on the rule and the Council is actively preparing an FMP amendment to address the emergency on a permanent basis. NMFS solicited comments on the initial emergency rule; no public comments were received. The Council recently adopted final measures for FMP Amendment 11 that would address gear conflicts in the royal red shrimp fishery and overfishing of the royal red shrimp resource. If approved and implemented by NMFS, those measures would replace this emergency interim rule. The effectiveness of the initial emergency interim rule is being extended because the potential for gear conflicts and overfishing remain, and action to address these issues through Amendment 11 cannot be taken by March 18, 2001.

Additional details concerning the basis for emergency action to prohibit the use of trap gear in the royal red shrimp fishery are contained in the preamble to the initial emergency interim rule and are not repeated here.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that the extension of this emergency interim rule is necessary to prevent gear conflict and overfishing in the royal red shrimp fishery. The AA has also determined that this rule is consistent with the Magnuson-Stevens Act and other applicable laws.

This emergency interim rule has been determined to be not significant for purposes of E.O. 12866.

NMFS prepared an economic evaluation of the regulatory impacts associated with the emergency interim rule that is summarized as follows.

Currently, trap gear is not an authorized gear in the royal red shrimp fishery in the Gulf of Mexico. Trap gear is not on the list of authorized fishing gear for this fishery (see 50 CFR 600.725) and, therefore, is not allowed. However, consistent with the guidelines contained in 50 CFR 600.725, an individual fisherman may notify the Council of the intent to use a gear not on the list. Ninety days after such notification, the individual may use the gear unless regulatory action is taken to prohibit the use of such gear. The Council was notified on June 16, 2000, of an intent to use trap gear in the royal red fishery. This emergency interim rule is designed to maintain the status quo in the fishery until such time as the Council can prepare and submit to NMFS for review and approval FMP Amendment 11 that would prohibit the use of trap gear in the royal red shrimp fishery on a permanent basis. Because the emergency interim rule is designed to maintain the status quo situation where trap gear is not authorized in the royal red shrimp fishery, there are no economic consequences to the current participants in the fishery.

Copies of the economic evaluation are available (see **ADDRESSES**).

This extension of the interim rule will help to ensure avoidance of gear conflict and overfishing in the royal red shrimp fishery until a more permanent regulatory solution can be implemented. This extension of the emergency interim rule does not impose new or additional restrictions, rather, it maintains the status quo condition regarding allowable gear in the royal red shrimp fishery (i.e., trap gear is not allowed). Accordingly, under authority set forth at 5 U.S.C. 553(b)(B), the AA finds that these reasons constitute good cause to waive the requirement to provide prior notice and the opportunity for prior public comment, as such procedures would be contrary to the public interest. For these same reasons, under 5 U.S.C. 553(d)(3), the AA finds for good cause that a delay in the effective date of this emergency interim rule would be contrary to the public interest.

Because prior notice and an opportunity for public comment are not required to be provided for this emergency interim rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this emergency interim rule. Comments should be sent to the Southeast Regional Office (see **ADDRESSES**).

Dated: March 6, 2001.

William T. Hogarth

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service .

[FR Doc. 01–6351 Filed 3–13–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013-1013-01; I.D. 030801B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Vessels Catching Pollock for Processing by the Mothership Component in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the mothership component in the Steller sea lion conservation area (SCA) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the A season limit of pollock total allowable catch (TAC) specified to the mothership component for harvest within the SCA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 9, 2001, until 1200 hrs, A.l.t., April 1, 2001.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the

BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The amount of the 2001 A season limit of pollock TAC specified to the mothership component for harvest within the SCA was established as 14,607 metric tons by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001).

In accordance with § 679.22(a)(11)(iv)(A)&(C) the Administrator, Alaska Region, NMFS, has determined that the A season limit of pollock TAC allocated to the mothership component for harvest within the SCA has been reached. Consequently, in accordance with § 679.22(a)(11)(iv)(D), NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the mothership component within the SCA in the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the amount of the 2001 A season limit of pollock TAC specified to the mothership component for harvest within the SCA constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to prevent exceeding the 2001 A season limit of pollock total allowable catch specified to the mothership component for harvest within the SCA constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.22 and is exempt from review under Executive Order 12866.

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

Dated: March 9, 2001.

Richard W. Surdi,

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

[FR Doc. 01–6345 Filed 3–9–01; 2:50 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 50
Wednesday, March 14, 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.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Proposed waiver of the Nonmanufacturer Rule.

SUMMARY: The Small Business Administration (SBA) is considering a waiver of the Nonmanufacturer Rule for aerospace ball and roller bearings, consists of, but not limited to, annular ball bearings, cylindrical ball bearings, linear ball bearings, linear roller bearings, needle roller bearings, ball or roller bearing races, roller bearings, tapered roller bearings and thrust roller bearings. The basis for waivers is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses or awarded through the SBA 8(a) Program. The purpose of this notice is to solicit comments and source information from interested parties.

DATES: Comments and sources must be submitted on or before March 29, 2001.

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

SUPPLEMENTARY INFORMATION: Public Law 100–656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small businesses or SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.906(b) and 121.1106(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors in the Federal market. To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines "class of products" based on two coding systems. The first is the Office of Management and Budget *Standard Industrial Classification Manual*. The second is the Product and Service Code established by the Federal Procurement Data System.

This notice proposes to waive the Nonmanufacturer Rule for aerospace ball and roller bearings, consist of, but not limited to, annular ball bearings, cylindrical ball bearings, linear ball bearings, linear roller bearings, needle roller bearings, ball or roller bearing races, roller bearings, tapered roller bearings and thrust roller bearings, SIC code 3562 and North American Industry Classification System (NAICS) 332991, public is invited to comment or provide source information to SBA on the proposed waiver of the Nonmanufacturer Rule for the aerospace ball and roller bearings, consist of, but not limited to, annular ball bearings, cylindrical ball bearings, linear ball bearings, linear roller bearings, needle roller bearings, ball or roller bearing races, roller bearings, tapered roller bearings and thrust roller bearings specified.

Luz A. Hopewell,

Associate Administrator for Government Contracting.

[FR Doc. 01–6306 Filed 3–13–01; 8:45 am]

BILLING CODE 8025–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–06–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada (BHTC) Model 407 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to BHTC Model 407 helicopters. This proposal would require replacing certain cockpit warning horns. This proposal is prompted by reports that pilots have had difficulty in distinguishing between the FADEC Fail horn, the Engine Out horn, and the Low Rotor RPM horn. The actions specified by the proposed AD are intended to assist the pilot in properly identifying a specific cockpit warning horn (horn) and prevent an inappropriate pilot response to a horn, which could cause an engine overspeed and subsequent uncommanded reduction to flight-idle engine power.

DATES: Comments must be received on or before May 14, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–06–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov. Comments may be inspected at the Office of the Regional Counsel between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 363–8023, fax (450) 433–0272. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Regulations Group, Fort Worth, Texas 76193, telephone (817) 222–5122, fax (817) 222–5961.

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 document 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 mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–SW–06–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–06–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

Transport Canada, which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on BHTC Model 407 helicopters. Transport Canada advises that there is a need for the sound of the FADEC Fail horn to be distinct, and for the Engine Out and Low Rotor RPM horns to be louder.

BHTC has issued Bell Helicopter Textron Alert Service Bulletin No. 407–97–12, dated October 7, 1997, which specifies replacing the horns. Transport Canada classified this service bulletin as mandatory and issued AD No. CF–98–13, effective August 7, 1998, in order to assure the continued airworthiness of these helicopters in Canada.

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

Since an unsafe condition has been identified that is likely to exist or develop on other BHTC Model 407 helicopters of the same type design registered in the United States, the proposed AD would require replacing the FADEC Fail horn, the Engine Out horn, and the Low Rotor RPM horn. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 200 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 2.5 work hours per helicopter to replace the horns, and that the average labor rate is $60 per work hour. Required parts would cost approximately $154. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $60,800 to replace the horns in all the fleet.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Bell Helicopter Textron Canada: Docket No. 99–SW–06–AD.

Applicability: Model 407 helicopters, serial numbers 53000 through 53194, 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 within 90 calendar days, unless accomplished previously.

To assist the pilot in properly identifying a specific warning horn (horn) and prevent an inappropriate pilot response to a horn, which could cause an engine overspeed and subsequent uncommanded reduction to flight-idle engine power, accomplish the following:

(a) Remove and replace the following horns and install the specified terminal junctions in accordance with the Accomplishment Instructions in Bell Helicopter Textron Alert Service Bulletin No. 407–97–12, dated October 7, 1997:

Part Name	Current Part Number	Replacement Part Number
FADEC Fail Horn ..	SC648S	VSB628CP
Low Rotor RPM Horn.	SC628	SC628N
Engine Out Horn ...	SC628P	SC628NP
Terminal Junction (2).		M81714/65–22–11

(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, Rotorcraft Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Regulations Group.

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

(c) Special flight permits may be issued in accordance with §§ 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.

Note 3: The subject of this AD is addressed in Transport Canada (Canada) AD No. CF–98–13, effective August 7, 1998.

Issued in Fort Worth, Texas, on March 5, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–6287 Filed 3–13–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–276–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes. That AD currently requires inspections to detect fatigue cracking of the vertical beam webs and chords of the nose wheel well (NWW) and of the inner chord and web of the fuselage frames at body station (BS) 300 and BS 320, and repair, if necessary. This action would expand the applicability of the existing AD to include additional airplanes, and add new requirements for repetitive inspections to detect fatigue cracking of the NWW vertical beam webs and frames from BS 260 to BS 320, and follow-on actions, if necessary, which would end the currently required inspections for airplanes subject to them. This action also provides terminating action for the new repetitive inspections. The actions specified by the proposed AD are intended to detect and correct fatigue cracking of the NWW vertical beam webs and frames, which could result in collapse of the NWW pressure bulkhead and subsequent rapid decompression of the airplane.

DATES: Comments must be received by April 30, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–276–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9–anm–nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000–NM–276–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NM–276–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–276–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On December 20, 1996, the FAA issued AD 96–26–04, amendment 39–9867 (61 FR 69026, December 31, 1996), applicable to certain Boeing Model 747 series airplanes, to require a one-time inspection to detect fatigue cracking of the vertical beam webs and chords of the nose wheel well (NWW) at body station (BS) 300 and BS 320, repetitive inspections to detect fatigue cracking of the inner chord and web of the fuselage frames at BS 300 and BS 320, and repair, if necessary. That action was prompted by a report indicating that the fuselage frames at BS 300 and BS 320 severed approximately 10 inches outboard of the NWW side panel and resulted in accelerated fatigue cracking

and subsequent failure of the adjacent NWW vertical beams. The requirements of that AD are intended to detect and correct such fatigue cracking, which could result in collapse of the NWW pressure bulkhead and subsequent rapid decompression of the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the FAA has received several reports of cracking in the NWW vertical beam webs and frames. On one airplane, a severed frame and vertical beam were found at BS 320 on the right-hand side of the airplane. Additional cracking was found on the vertical beams at BS 300 and BS 320 on the left-hand side of the airplane. This airplane had accumulated 17,743 flight cycles.

On another airplane, which had accumulated 17,329 flight cycles, cracks were found in the vertical beams at BS 300 and BS 320 on the left and right sides of the airplane, as well as in the top panel intercostal in the nose wheel well between BS 280 and BS 300.

Based on these reports of cracking, the FAA has determined that the detailed visual inspections required by the existing AD are not adequate to detect fatigue cracking. Also, cracking may exist outside the areas required to be inspected per the existing AD. In addition, airplanes modified to have improved frames, per Boeing Service Bulletin 747–53–2272, were excluded from the applicability of the existing AD. The FAA finds that, though these airplanes have improved frames, they still have the same vertical beams that are susceptible to fatigue cracking. For these reasons, the FAA finds that it is necessary to require additional inspections on airplanes affected by the existing AD and to expand the applicability of the existing AD to include airplanes with improved frames.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2293, Revision 8, dated July 13, 2000. Among other things, this service bulletin describes new procedures for repetitive inspections to detect fatigue cracking of NWW vertical beam webs and frames from BS 260 to BS 320 (defined in the service bulletin as "Area 4"), and follow-on actions, if necessary. Inspection procedures include:

- Open-hole high frequency eddy current (HFEC) inspections to detect fatigue cracking of the BS 300 and BS 320 frame inner chords inboard of stringer 39,
- Surface HFEC inspections at all fastener locations common to the inner and outer chords of the NWW vertical beams, and
- Open-hole HFEC inspection of tool holes and insulation blanket standoff holes in the vertical beams.

If any cracking is found, follow-on actions include secondary internal and external detailed visual inspections or an HFEC inspection of adjacent areas to detect any additional cracking, and repair or installation of a modification that involves replacing vertical beam webs and frames, as applicable, with new parts. This modification eliminates the need for the repetitive inspections described previously, and may also be done, but is not required, on airplanes with no cracking.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 96–26–04 to continue to require, for currently affected airplanes, inspections to detect fatigue cracking of the vertical beam webs and chords of the nose wheel well (NWW) and of the inner chord and web of the fuselage frames at body station (BS) 300 and BS 320, and repair, if necessary. The proposed AD would add new requirements for repetitive inspections to detect fatigue cracking of NWW vertical beam webs and frames from BS 260 to BS 320, and follow-on actions, if necessary, which would end the currently required inspections for affected airplanes. The proposed AD also would provide an optional terminating action for the repetitive inspections. The actions would be required to be accomplished in accordance with the service bulletin described previously, except as discussed below in the section titled, "Differences Between Service Bulletin and This Proposed AD."

Operators also should note that paragraph (f) of this proposed AD applies to airplanes in Groups 1 through 11 on which cracking was detected during the inspection required by paragraph (a) of the existing AD. Though the FAA intended that all airplanes subject to the existing AD must repeat the paragraph (a) inspection at regular intervals, the FAA has determined that airplanes on which cracking was repaired per paragraph (a)(2) may not have been repetitively inspected. Therefore, paragraph (f) of this proposed AD would require that affected airplanes not inspected per paragraph (a) within the last 100 flight cycles be inspected per paragraph (c) of this AD within 100 flight cycles after the effective date of this AD. The FAA has determined that such a compliance time is necessary to ensure continued safety of flight for these airplanes.

Interim Action

This is considered to be interim action. The FAA is currently considering requiring the replacement of vertical beam webs and frames, as applicable, with new parts, which is provided in this AD as a required corrective action (for airplanes with cracking) or an optional terminating action (for airplanes without cracking). If the FAA decides to mandate such replacement, we will invite public comment at that time.

Differences Between Service Bulletin and This Proposed AD

Procedure 1, as specified in the service bulletin, applies to (among other airplanes) certain airplanes in Groups 1 through 11 that are already subject to the inspections required by AD 96–26–04. For airplanes subject to Procedure 1, the service bulletin specifies a compliance time of the latest of 10,000 total flight cycles, 100 flight cycles after the last inspection per AD 96–26–04, or, for airplanes not yet inspected per AD 96–26–04, within 50 flight cycles after January 6, 1997 (the effective date of AD 96–26–04). The FAA finds that this compliance time could be confusing for operators. Therefore, this proposed AD specifies a simpler compliance time of 10,000 total flight cycles or 100 flight cycles after the last inspection per paragraphs (a)(1) of this AD for the subject airplanes. Also, paragraph (e) of the proposed AD provides for airplanes subject to Procedure 1 that have not been inspected per the existing AD. That paragraph allows operators of affected airplanes to do paragraph (c) of this AD instead of paragraphs (a) and (b) of this AD, provided that the inspections are done at the compliance times provided in paragraphs (a) and (b).

In addition, Procedure 2, as specified in the service bulletin, applies to airplanes in Groups 1 through 11 on which frame replacement per Boeing Service Bulletin 747–53–2272 has been done, as well as airplanes in Groups 12 and 13. For airplanes subject to Procedure 2, the service bulletin specifies a compliance time of 10,000 total flight cycles or 1,500 flight cycles after January 6, 1997 (the effective date

of the existing AD). The FAA finds that, because the airplanes subject to Procedure 2 were not included in the applicability of the existing AD, adopting the compliance time specified in the service bulletin could result in some airplanes being out of compliance with this proposed AD as of the effective date of this AD. The FAA finds that, while it is necessary for the affected airplanes to be inspected in a timely manner, it would be inappropriate to ground these airplanes until the required inspection can be done. Therefore, for airplanes subject to Procedure 2, this proposed AD includes a grace period of 100 flight cycles after the effective date of this AD.

Cost Impact

There are approximately 562 airplanes of the affected design in the worldwide fleet. The FAA estimates that 179 airplanes of U.S. registry would be affected by this proposed AD.

For affected airplanes, the inspections that are currently required by AD 96–26–04 take approximately 24 work hours per airplane, at an average labor rate of $60 per work hour. Based on these figures, the FAA estimates the cost impact of the currently required actions to be $1,440 per affected airplane, per inspection cycle.

The new inspections that are proposed in this AD action would take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the FAA estimates the cost impact of these new actions on U.S. operators to be $42,960, or $240 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9867 (61 FR 69026, December 31, 1996), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 2000–NM–276–AD. Supersedes AD 96–26–04, Amendment 39–9867.

Applicability: Model 747 series airplanes, line numbers 1 through 685 inclusive, certificated in any category; except as excluded in the table below.

AIRPLANES EXCLUDED FROM APPLICABILITY OF THIS AD

Airplane Group (as listed in Boeing Alert Service Bulletin 747–53A2293, Revision 8, dated July 13, 2000)	Area 4 modified per Boeing Service Bulletin (BSB) 747–53–2293?	Zone 1 modified per BSB 747–53–2272?	Excepted from this AD?
1–11	Yes	Yes	Yes.
1–11	No	Yes	No.
1–11	Yes	No	No.
12–13	Yes	N/A	Yes.
12–13	No	N/A	No.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of nose wheel well (NWW) vertical beams and frames, which could result in collapse of the NWW pressure bulkhead and subsequent rapid decompression of the airplane, accomplish the following:

Restatement of Requirements of AD 96–26–04

Repetitive Inspections of Frame Inner Chord and Web and Repair

(a) For airplanes with line numbers 1 through 678 inclusive on which the Section 41 frame replacement in zone 1 specified in Boeing Service Bulletin 747–53–2272 has not been accomplished: Prior to the accumulation of 10,000 total flight cycles, or within 50 flight cycles after January 6, 1997 (the effective date of AD 96–26–04, amendment 39–9867), whichever occurs later, perform a detailed visual inspection to detect fatigue cracking of the inner chord and

web of the left side and right side of body station (BS) 300 and BS 320 fuselage frames from the NWW side panel outboard to stringer 39, in accordance with normal maintenance practices. Pay particular attention to the area where the NWW vertical beam inner chord interfaces with the fuselage frame.

(1) If no cracking is detected, repeat the detailed visual inspection thereafter at intervals not to exceed 100 flight cycles, until paragraph (c) of this AD is done.

(2) If any cracking is detected, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

One-Time Inspection of Vertical Beam Webs and Chords and Repair

(b) For airplanes with line numbers 1 through 678 inclusive on which the Section 41 frame replacement in zone 1 specified in Boeing Service Bulletin 747–53–2272 has not been accomplished: Prior to the accumulation of 10,000 total flight cycles, or within 50 flight cycles after January 6, 1997, whichever occurs later, perform a one-time detailed visual inspection to detect fatigue cracking of the left and right side vertical beam webs and chords of the NWW at BS 300 and BS 320, in accordance with normal maintenance procedures.

(1) If no cracking is detected, no further action is required by this paragraph.

(2) If any cracking is detected, prior to further flight, repair in accordance with a method approved by the Manager, Seattle ACO. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

New Requirements of This AD

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

Repetitive Inspections

(c) Do inspections to detect fatigue cracking of NWW vertical beam webs and frames, as applicable, from BS 260 to BS 320 ("Area 4"), per the applicable procedure shown in Table 1 of this AD and the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2293, Revision 8, dated July 13, 2000. For affected airplanes, inspection per this paragraph ends the repetitive inspections required by paragraph (a). Table 1 follows:

TABLE 1—DETERMINING THE APPLICABLE PROCEDURE

Airplane Group	Area 4 inspected per the original issue or Revisions 1 through 7 of BSB 747–53–2293?	Area 4 modified per BSB 747–53–2293?	Zone 1 modified per BSB 747–53–2272?	Applicable procedure and figures in service bulletin
1–11	No	No	No	Procedure 1; Figures 4 and 19, and Figure 10, as applicable.
1–11	No	No	Yes	Procedure 2; Figures 11 and 12.
1–11	Yes	No	No	Procedure 3; Figures 4 and 13, and Figures 10 and 14, as applicable.
1–11	Yes	No	Yes	Procedure 4; Figures 11 and 15.
1–11	No	Yes	No	Procedure 5; Figures 10, 16, and 17, as applicable.
1–11	Yes	Yes	No	Procedure 6; Figure 18; and Figure 10, 14 or 17, as applicable.
12–13	No	No	N/A	Procedure 2; Figures 11 and 12.
12–13	Yes	No	N/A	Procedure 4; Figures 11 and 15.

Repetitive Inspections: Compliance Schedule

(d) For all airplanes, do the inspection in paragraph (c) of this AD per the schedule in Table 2 or Table 3 of this AD, as applicable, except as provided by paragraph (f) of this AD. Thereafter, repeat the inspection at the interval specified in Table 2 or Table 3 of this AD, as applicable, until paragraph (h) of this AD is done. Tables 2 and 3 follow:

TABLE 2.—COMPLIANCE SCHEDULE—PROCEDURES 1, 2, AND 5

For airplanes subject to	Do the initial inspection before the latest of	Repeat the inspection in the service bulletin as follows:	
		If most recent inspection was per Option 1, repeat at least every	If most recent inspection was per Option 2, repeat at least every
Procedure 1	10,000 total flight cycles or 100 flight cycles after the last inspection per paragraph (a) of this AD.	1,500 flight cycles	100 flight cycles.
Procedure 2	10,000 total flight cycles or 1,500 flight cycles after January 6, 1997 or 100 flight cycles after the effective date of this AD.	1,500 flight cycles	500 flight cycles.

TABLE 2.—COMPLIANCE SCHEDULE—PROCEDURES 1, 2, AND 5—Continued

For airplanes subject to	Do the initial inspection before the latest of	Repeat the inspection in the service bulletin as follows:	
		If most recent inspection was per Option 1, repeat at least every	If most recent inspection was per Option 2, repeat at least every
Procedure 5	10,000 total flight cycles or 500 flight cycles since modification of Area 4 in accordance with BSB 747–53–2293 or 100 flight cycles after the effective date of this AD.	1,500 flight cycles	100 flight cycles.

TABLE 3.—COMPLIANCE SCHEDULE—PROCEDURES 3, 4, AND 6

For airplanes subject to	Do the initial inspection as follows, as applicable:		Repeat the inspection in the service bulletin as follows:	
	If most recent inspection was per Option 1, do the inspection:	If most recent inspection was per Option 2, do the inspection:	If most recent inspection was per Option 1, repeat at least every	If most recent inspection was per Option 2, repeat at least every
Procedure 3	Within 500 flight cycles since last inspection.	Within 100 flight cycles since last inspection.	1,500 flight cycles	100 flight cycles.
Procedure 4	Within 500 flight cycles since last inspection.	Within 100 flight cycles since last inspection.	1,500 flight cycles	500 flight cycles.
Procedure 6	Within 500 flight cycles since last inspection.	Within 100 flight cycles since last inspection.	1,500 flight cycles	100 flight cycles.

Exceptions to Inspections per Paragraphs (a) and (b)

(e) For airplanes subject to paragraphs (a) and (b) of this AD: Airplanes inspected per paragraph (c) of this AD within the compliance time specified in paragraphs (a) and (b) of this AD are not required to be inspected per paragraphs (a) and (b) of this AD.

(f) For airplanes in Groups 1 through 11 on which cracking was repaired prior to the effective date of this AD per paragraph (a)(2) of this AD: If an inspection per paragraph (a) has not been done within the last 100 flight cycles before the effective date of this AD, do the inspection in paragraph (c) of this AD within 100 flight cycles after the effective date of this AD.

Corrective Actions

(g) If any cracking is found during any inspection required by paragraph (c) or (d) of this AD, prior to further flight, perform corrective actions, including secondary inspections to detect further cracking, in accordance with the applicable procedure in the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2293, Revision 8, dated July 13, 2000.

Optional Terminating Action

(h) Replacement of vertical beams and frames, as applicable, in accordance with the applicable procedure in the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2293, Revision 8, dated July 13, 2000, ends the requirements of this AD.

Alternative Methods of Compliance

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

(2) Alternative methods of compliance, approved previously in accordance with AD 96–26–04, amendment 39–9867, are approved as alternative methods of compliance with paragraphs (a) and (b) of this AD.

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

Special Flight Permits

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

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

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–6286 Filed 3–13–01; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–561; MM Docket No. 01–63; RM–10075]

Radio Broadcasting Services; Kingman and Dolan Springs, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Hualapai Broadcasters, Inc., licensee of Station KRCY, Kingman, Arizona, requesting the substitution of Channel 224C for Channel 224C1 at Kingman, the reallotment of Channel 224C to Dolan Springs, Arizona, as that community's second local aural transmission service, and modification of its authorization accordingly. Coordinates used for this proposal are the Dolan Springs, Arizona, city reference at 35–35–31 NL and 114–16–21 WL.

DATES: Comments must be filed on or before April 16, 2001, and reply comments on or before May 17, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Robert L. Olender, Esq., Koerner & Olender,

P.C., 5809 Nicholson Lane, Suite 124, North Bethesda, MD 20852.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–63, adopted February 21, 2001, and released March 2, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR §§ 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Channel 224C at Dolan Springs, and by removing Channel 224C1 at Kingman.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–6245 Filed 3–13–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–563; MM Docket No. 01–62; RM–10053]

Radio Broadcasting Services; Ardmore, Brilliant, Gadsden, Moundville, Pleasant Grove, Scottsboro, Trussville, Tuscaloosa and Winfield, AL; Columbus and Okolona, MS; and McMinnville, Pulaski and Walden, TN

AGENCY: Federal Communications Commission (FCC).

ACTION: Proposed rule.

SUMMARY: This document requests comment on a Petition for Rule Making filed jointly on behalf of Capstar TX Limited Partnership and Jacor Licensee of Louisville II, Inc. This document proposes the substitution of Channel 288C3 for Channel 290A at Trussville, Alabama, reallotment of Channel 288C3 to Pleasant Grove, Alabama, and modification of the Station WENN license to specify operation on Channel 288C3 at Pleasant Grove; the substitution of Channel 290A for Channel 288A at Tuscaloosa, Alabama, reallotment of Channel 290A to Moundville, Alabama, and modification of the Station WRTR license to specify operation on Channel 290A at Moundville; the reallotment of Channel 290A from Winfield, Alabama, to Brilliant, Alabama, and modification of the Station WKXM license to specify Brilliant as the community of license; the reallotment of Channel 279C1 from Gadsden, Alabama, to Trussville, Alabama, and modification of the Station WQEN license to specify Trussville as the community of license; the reallotment of Channel 280C2 from Columbus, Mississippi, to Okolona, Mississippi, and modification of the Station WACR license to specify Okolona as the community of license; the substitution of Channel 252C1 for Channel 252A at Pulaski, Tennessee, reallotment of Channel 252C1 to Ardmore, Alabama, and modification of the Station WKSR license to specify operation on Channel 252C1 at Ardmore; the substitution of Channel 278A for Channel 252A at Scottsboro, Alabama, and modification of the Station WKEA license to specify operation on Channel 278A; and the substitution of Channel 279C1 for Channel 280A at McMinnville, Tennessee, reallotment of Channel 279C3 to Walden, Tennessee, and modification of the Station WKEA license to specify operation on Channel 279C3 at Walden. The coordinates for the Channel 279C1 allotment at Trussville, Alabama, would be 33–26–38 and 86 52–47; the coordinates for Channel 288C3 allotment at Pleasant Grove, Alabama, would be 33–26–38 and 86-52–47; the coordinates for the Channel 280C2 allotment at Okolona, Mississippi, would be 33–51–38 and 88–30–44; the coordinates for the Channel 252C1 allotment at Ardmore, Alabama, would be 34–56–27 and 86–48–15; the coordinates for the Channel 279C3 allotment at Walden, Tennessee, would be 35–14–32 and 85 22–17; the coordinates for the Channel 290A allotment at Moundville, Alabama, would be 33–00–03 and 87–34–20; the coordinates for the Channel 278A allotment at Scottsboro, Alabama, would be 34–35–22 and 85–59–31; and the coordinates for the Channel 290A allotment at Brilliant, Alabama, would be 34–01 25 and 87–46–17.

DATES: Comments must be filed on or before April 24, 2001, and reply comments on or before May 9, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC, 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Mark N. Lipp, c/o Shook, Hardy & Bacon, 600 14th Street, NW, Suite 800, Washington, DC, 20005; and Gregory L. Masters, c/o Wiley, Rein & Fielding, 1776 K Street, NW, Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making* in MM Docket No. 01–62, adopted February 28, 2001, and released March 2, 2001. The full text of this Commission action is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals II, CY–A257, 445 12th Street, SW, Washington, DC. The complete text of this action may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, Washington, DC. 20036. Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments.

See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–6244 Filed 3–13–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 01–565, MM Docket No. 01–64, RM–10074]

Radio Broadcasting Services; Monticello, Maine

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Allan H. Wiener proposing the allotment of Channel 234A at Monticello, Maine, as that community's first local FM service. The coordinates for Channel 234A at Monticello are 46–24–20 and 67–50–45. There is a site restriction 10.8 kilometers (6.7 miles) north of the community. Canadian concurrence will be requested for the allotment of Channel 234A at Monticello as a specially negotiated short-spaced allotment.

DATES: Comments must be filed on or before April 23, 2001, and reply comments on or before May 8, 2001.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Allan H. Wiener, East Road, Monticello, Maine 04760.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–64, adopted February 21, 2001, and released March 2, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Maine, is amended by adding Monticello, Channel 234A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–6243 Filed 3–13–01; 8:45 am]

BILLING CODE 6712–01–U

Notices

Federal Register
Vol. 66, No. 50
Wednesday, March 14, 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

Agricultural Marketing Service

[Docket No. DA–98–02B]

United States Standards for Grades of Dry Whole Milk

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: This document gives notice of the availability of revisions to the United States Standards for Grades of Dry Whole Milk. The changes will: (1) Lower the maximum bacterial estimate to not more than 10,000 per gram for U.S. Extra Grade and not more than 50,000 per gram for U.S. Standard Grade, (2) include protein content as an optional test, (3) incorporate maximum titratable acidity requirements, (4) expand the "Test methods" section to allow product evaluation using the latest methods included in the Standard Methods for the Examination of Dairy Products, in the Official Methods of Analysis of the Association of Official Analytical Chemists, and in standards developed by the International Dairy Federation, (5) reference the Food and Drug Administration's standards of identity for dry whole milk, (6) relocate information concerning the optional oxygen content determination, and (7) make editorial changes that would provide consistency with other U.S. grade standards for dairy products.

EFFECTIVE DATE: This notice is effective April 13, 2001.

ADDRESSES: The revised Standards are available from Duane R. Spomer, Chief, Dairy Standardization Branch, Dairy Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2746, South Building, Stop 0230, P.O. Box 96456, Washington, DC 20090–6456 or at *www.ams.usda.gov/dairy/stand.htm*.

FOR FURTHER INFORMATION CONTACT: Talari V. Jude, Dairy Products Marketing Specialist, Dairy Standardization Branch, Dairy Programs, USDA/AMS/Dairy Programs, Room 2746, South Building, P.O. Box 96456, Washington, DC 20090–6456; (202) 720–7473.

SUPPLEMENTARY INFORMATION: Section 203 (c) of the Agricultural Marketing Act of 1946, as amended, directs and authorizes the Secretary of Agriculture "to develop and improve standards of quality, condition, quantity, grade, and packaging and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices * * *." AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and will make copies of official standards available upon request. The United States Standards for Grades of Dry Whole Milk no longer appear in the Code of Federal Regulations (CFR) but are maintained by USDA/AMS/Dairy Programs.

AMS is revising the United States Standards for Grades of Dry Whole Milk using the procedures it published in the August 13, 1997, **Federal Register** and that appear in Part 36 of Title 7 of the CFR.

The notice, which included a request for comments on the proposed changes, was published in the **Federal Register** on July 28, 2000 (65 FR 46399–46421).

The current United States Standards for Grades of Dry Whole Milk have been in effect since May 13, 1983. AMS initiated a review of these standards and discussed possible changes with the dairy industry. The American Dairy Products Institute (ADPI), a trade association representing the dry whole milk industry, provided specific suggestions, including suggestions to lower the maximum bacterial content requirements and to expand the definition of dry whole milk to include optional ingredients that may be added. AMS proposed changes to reflect improvements in the quality of dry whole milk and marketing changes that have occurred since the standards were last revised. In addition, AMS proposed changes to promote greater uniformity and consistency in the application of these standards.

AMS published the notice in the **Federal Register** with an outline of the specific proposed changes and provided a comment period of 60 days, which ended on September 26, 2000.

ADPI filed comments expressing their general support for the proposal and provided a specific recommendation to retain roller process product in the standards. This recommendation would reincorporate currently existing roller process product provisions in the "Definitions" section, the "Specifications for U.S. grades" section, and in the summary provided in Table III. ADPI reported that a significant amount of roller process product is manufactured for its unique functional properties. No other comments were received.

Before the proposed changes to the United States Standards for Grades of Dry Whole Milk were published, AMS discussed the issue of roller process product with the dairy industry. At that time there was little interest in retaining specific provisions for roller process product. However, during the comment period ADPI identified manufacturers of roller process product interested in retaining these provisions. AMS agrees to maintain roller process product provisions in the United States Standards for Grades of Dry Whole Milk so that these standards can continue to be used to establish quality standards for roller process product.

There was an inadvertent omission of titratable acidity information in "Table III. Classification According to Laboratory Analysis." In its proposal, AMS proposed changes that would make titratable acidity a required test to determine U.S. Grade and included information in the "Specifications for U.S. grades" section. AMS intended that this information also be included in the summary table.

In addition to the revisions discussed in the July 28, 2000, **Federal Register** notice, the following sections of the United States Standards for Grades of Dry Whole Milk are also revised as follows:

Definitions

The "dry whole milk" definition is changed to read as follows:

"Dry whole milk" made by the Spray process or Roller process is the product obtained by removal of water only from pasteurized milk which may have been homogenized. It contains not more than 5 percent by weight of moisture on a milk solids not fat basis and not less than 26 percent but less than 40 per cent

by weight of milk fat. It shall conform to the applicable provisions of 21 CFR 131 "Milk and Cream" as issued by the Food and Drug Administration. Alternatively, dry whole milk may be obtained by blending fluid, condensed, or dried nonfat milk with liquid or dried cream or with fluid, condensed, or dried milk, as appropriate, provided the resulting dry whole milk is equivalent in composition to that obtained by drying. It contains the lactose, milk proteins, milkfat, and milk minerals in the same relative proportions as the milk from which it was made. It may be optionally fortified with either Vitamins A or D or both.

Specifications for U.S. Grades

Under the section beginning "(a) U.S. Extra Grade." paragraphs (7) and (8) are changed to read as follows:

(7) Scorched particle content. Not more than 15.0 mg. for spray process, and 22.5 mg. for roller process. See Table III. Classification According to Laboratory Analysis of this section.

(8) Solubility Index. Not more than 1.0 ml. for spray process, and 15.0 ml. for roller process. See Table III. Classification According to Laboratory Analysis of this section.

Under the section beginning "(b) U.S. Standard Grade." paragraphs (7) and (8) are changed to read as follows:

(7) Scorched particle content. Not more than 22.5 mg. for spray process, and 32.5 mg. for roller process. See Table III. Classification According to Laboratory Analysis of this section.

(8) Solubility index. Not more than 1.5 ml. for spray process, and 15.0 ml. for roller process. See Table III. Classification According to Laboratory Analysis, of this section.

Table III. Classification According to Laboratory Analysis

Under "Table III. Classification According to Laboratory Analysis" the scorched particle and solubility index information is revised and the titratable acidity information is added to read as follows:

TABLE III.—CLASSIFICATION ACCORDING TO LABORATORY ANALYSIS

Laboratory tests	U.S. Extra Grade	U.S. Standard Grade
Scorched particle content; mg. (max)		
Spray process	15.0	22.5
Roller process	22.5	32.5
Solubility index; ml. (max)		
Spray process	1.0	1.5
Roller process	15.0	15.0
Titratable acidity (lactic acid); percent (max)	Not more than 0.15	Not more than 0.17

A typographical error in the ZIP code for the Association of Official Analytical Chemists that appears in the "Test Methods" section of the revised standard should read 20877–2417.

Accordingly, the notice revising the United States Standards for Grades of Dry Whole Milk published in the **Federal Register** at 65 FR 46399–46421 on July 28, 2000, as well as the changes and corrections made in this notice, are incorporated in the revised United States Standards for Grades of Dry Whole Milk.

The revised United States Standards for Grades of Dry Whole Milk are available either through the address included in this notice or by accessing the AMS Home Page on the Internet at *http://www.ams.usda.gov/dairy/stand.htm.*

Authority: (7 U.S.C. 1621–1627).

Dated: March 7, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–6331 Filed 3–13–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Income Eligibility Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Department announces adjusted income eligibility guidelines to be used by State agencies in determining the income eligibility of persons applying to participate in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program). These income eligibility guidelines are to be used in conjunction with the WIC Regulations.

EFFECTIVE DATE: July 1, 2001.

FOR FURTHER INFORMATION CONTACT: Debra Whitford, Branch Chief, Policy and Program Development Branch, Supplemental Food Programs Division, FNS, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 305–2730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of this Act.

Paperwork Reduction Act of 1995

This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112 June 24, 1983).

Description

Section 17(d)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786 (d)(2)(A)) requires the Secretary of Agriculture to establish income criteria to be used with nutritional risk criteria in determining a person's eligibility for participation in the WIC Program. The law provides that persons will be income eligible for the WIC Program only if they are members of families that

satisfy the income standard prescribed for reduced-price school meals under section 9(b) of the National School Lunch Act (42 U.S.C. 1758(b)). Under section 9(b), the income limit for reduced-price school meals is 185 percent of the Federal poverty guidelines, as adjusted.

Section 9(b) also requires that these guidelines be revised annually to reflect changes in the Consumer Price Index. The annual revision for 2001 was published by the Department of Health and Human Services (DHHS) at 66 FR 10695, Feb. 16, 2001. The guidelines published by DHHS are referred to as the poverty guidelines.

Section 246.7(d)(1) of the WIC regulations specifies that State agencies may prescribe income guidelines either equaling the income guidelines established under section 9 of the National School Lunch Act for reduced-price school meals or identical to State or local guidelines for free or reduced-price health care. However, in conforming WIC income guidelines to State or local health care guidelines, the State cannot establish WIC guidelines which exceed the guidelines for reduced-price school meals, or which are less than 100 percent of the Federal poverty guidelines. Consistent with the method used to compute income eligibility guidelines for reduced-price meals under the National School Lunch Program, the poverty guidelines were multiplied by 1.85 and the results rounded upward to the next whole dollar.

At this time the Department is publishing the maximum and minimum WIC income eligibility guidelines by household size for the period July 1, 2001, through June 30, 2002. Consistent with section 17(f)(17) of the Child Nutrition Act of 1966 (42 U.S.C. 786(f)(17)), a State agency may implement the revised WIC income eligibility guidelines concurrently with the implementation of income eligibility guidelines under the Medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396, *et seq.*). State agencies may coordinate implementation with the revised Medicaid guidelines, but in no case may implementation take place later than July 1, 2001. State agencies that do not coordinate implementation with the revised Medicaid guidelines must implement the WIC income eligibility guidelines on July 1, 2001. The first table of this notice contains the income limits by household size for the 48 contiguous States, the District of Columbia and all Territories, including Guam. Because the poverty guidelines for Alaska and Hawaii are higher than for the 48 contiguous States, separate tables for Alaska and Hawaii have been included for the convenience of the State agencies.

INCOME ELIGIBILITY GUIDELINES
(Effective from July 1, 2001 to June 30, 2002)

Household Size	Federal Poverty Guidelines- 100%					Reduced Price Meals - 185%				
	Annual	Monthly	Twice-Monthly	Bi-Weekly	Weekly	Annual	Monthly	Twice-Monthly	Bi-Weekly	Weekly
	48 Contiguous States, D.C., Guam and Territories									
1	8,590	716	358	331	168	15,892	1,325	663	612	306
2	11,810	968	484	447	224	21,479	1,790	895	827	414
3	14,630	1,220	810	563	282	27,066	2,256	1,128	1,041	521
4	17,650	1,471	736	679	340	32,653	2,722	1,361	1,256	628
5	20,870	1,723	862	795	398	38,240	3,187	1,594	1,471	736
6	23,690	1,975	988	912	456	43,827	3,653	1,827	1,686	843
7	28,710	2,226	1,113	1,028	514	49,414	4,118	2,059	1,901	951
8	29,730	2,478	1,239	1,144	572	55,001	4,584	2,292	2,116	1,058
Each Add'l Member Add	+3020	+252	+126	+117	+59	+5,587	+466	+233	+215	+108
	Alaska									
1	10,730	895	448	413	207	19,851	1,655	828	764	382
2	14,510	1,210	605	559	280	26,844	2,237	1,119	1,033	517
3	18,290	1,525	763	704	352	33,837	2,820	1,410	1,302	651
4	22,070	1,840	920	849	425	40,830	3,403	1,702	1,571	786
5	25,850	2,155	1,078	995	498	47,823	3,986	1,993	1,840	920
6	29,630	2,470	1,235	1,140	570	54,816	4,568	2,284	2,109	1,055
7	33,410	2,785	1,393	1,285	643	61,809	5,151	2,576	2,378	1,189
8	37,190	3,100	1,550	1,431	716	68,802	5,734	2,867	2,647	1,324
Each Add'l Member Add	+3,780	+315	+158	+148	+73	+6,993	+583	+292	+269	+135
	Hawaii									
1	9,890	825	413	381	191	16,297	1,525	763	704	352
2	13,360	1,114	557	514	257	24,718	2,060	1,030	951	476
3	16,830	1,403	702	648	324	31,136	2,595	1,298	1,196	599
4	20,300	1,692	846	781	391	37,555	3,130	1,565	1,445	723
5	23,770	1,981	991	915	458	43,975	3,665	1,833	1,692	846
6	27,240	2,270	1,135	1,048	524	50,394	4,200	2,100	1,939	970
7	30,710	2,560	1,280	1,182	591	56,814	4,735	2,368	2,186	1,093
8	34,180	2,849	1,425	1,315	658	83,233	5,270	2,635	2,433	1,217
Each Add'l Member Add	+3,470	+290	+145	+134	+67	+8,420	+535	+268	+247	+124

Authority: 42 U.S.C. 1786.

Dated: March 9, 2001.

George A. Braley,

Acting Administrator.

BILLING CODE 3410-30-P

[FR Doc. 01-6337 Filed 3-13-01; 8:45 am]

BILLING CODE 3410-30-C

DEPARTMENT OF AGRICULTURE

Forest Service

McCache Vegetation Management Environmental Assessment, Deschutes National Forest, Deschutes County, Oregon

AGENCY: Forest Service, USDA.

ACTION: Notice of Availability.

SUMMARY: The Environmental Assessment for the McCache Vegetation Management project is available for review and comment. This project analyzes 15,000 acres of National Forest lands within a Late-Successional Reserve that have been heavily impacted by drought and insects. The objective of the project is to determine future options for reducing the high risk of severe wildfire, and how best to restore habitat. The project would also amend visual quality standards in the Deschutes National Forest Land and Resource Management Plan. The McCache Vegetation Management project area is located about 5 miles west of Sisters, Oregon.

The Environmental Assessment is available upon request for the Sisters Ranger District, P.O. Box 249, Sisters, Oregon, 97759; at the Deschutes National Forest Supervisor's Office, 1645 Highway 20 East, Bend, Oregon; and at the Deschutes National Forest website at *www.fs.fed.us/r6/deschutes.*

Written comments should be addressed to William Anthony, District Ranger, P.O. Box 249, Sisters, OR 97759. Comments can also be sent by email to kmartinson@fs.fed.us. Written or oral comments should include your name, address, and telephone number. Please include the title of the document; specific facts or comments, and supporting reasons for your comments.

EFFECTIVE DATE: Please submit comments within 30 days following publication of the legal notice of availability in the Nugget newspaper, Sisters, Oregon.

FOR FURTHER INFORMATION CONTACT: For further information, contact Kris Martinson, Sisters Ranger District, P.O. Box 249, Sisters, Oregon, 97759, or phone (541) 549-7730.

Dated: March 2, 2001.

Leslie A.C. Weldon,

Forest Supervisor.

[FR Doc. 01-6297 Filed 3-13-01; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Lost River Subwatershed, Hardy County, West Virginia

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that a supplemental environmental impact statement is not being prepared for the Lost River Subwatershed, Hardy County, West Virginia.

FOR FURTHER INFORMATION CONTACT: William J. Hartman, State Conservationist, Natural Resources Conservation Service, 75 High Street, Room 301, Morgantown, West Virginia, 26505, telephone 304-284-7540.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, William J. Hartman, State Conservationist, has determined that the preparation and review of a supplemental environmental impact statement are not needed for this project.

The supplemental project purpose is to address water supply shortages in Hardy County, West Virginia through the inclusion of 400 acre-feet of rural water supply storage to the planned Lost River Dam Site 10, located on Camp Branch of Baker Run near Needmore, West Virginia.

The Finding Of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting William J. Hartman.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

This activity is listed in the Catalog of Federal Domestic Assistance under NO. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

William J. Hartman,

State Conservationist.

[FR Doc. 01-6366 Filed 3-13-01; 8:45 am]

BILLING CODE 3410-16-P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Georgia

AGENCY: Natural Resources Conservation Service (NRCS) in Georgia, U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in section IV of the FOTG of the NRCS in Georgia for review and comment.

SUMMARY: It is the intention of NRCS in Georgia to issue interim and revised conservation practice standards in Section IV of the FOTG. The revised standards are Nutrient Management (590); Waste Utilization (633); Waste Treatment Lagoon (359); Waste Storage Structure (313); Manure Transfer (634); Closure of Waste Impoundments (360). The interim conservation practice standard being added to Section IV of the FOTG are Waste Field Storage (749); Incinerator (769); and Animal Mortality Freezers (774).

DATES: Comments will be received until April 13, 2001.

FOR FURTHER INFORMATION CONTACT: Address all requests and comments to Earl Cosby, State Conservationist, Natural Resources Conservation Service (NRCS); Stephens Federal Building, MS 200; 355 E. Hancock Ave., Athens, Georgia, 30601. Copies of these standards will be made available upon written request. You may submit your electronic requests and comments to *vernon.jones@ga.usda.gov.*

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that after enactment of the law,

revisions made to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Georgia will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Georgia regarding disposition of these comments and a final determination of changes will be made.

Dated: February 5, 2001.

Richard Oliver,

Assistant State Conservationist, Athens, Ga.

[FR Doc. 01–6365 Filed 3–13–01; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Indiana

AGENCY: Natural Resources Conservation Service (NRCS), Agriculture.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Indiana for review and comment.

SUMMARY: It is the intention of NRCS in Indiana to issue a revised conservation practice standard in section IV of the FOTG. The revised standard is Early Successional Habitat Development/ Management (647). This practice may be used in conservation systems that treat highly erodible land and/or wetlands.

DATES: Comments will be received until on or before April 13, 2001.

ADDRESSES: Address all requests and comments to Jane E. Hardisty, State Conservationist, Natural Resources Conservation Service (NRCS), 6013 Lakeside Blvd., Indianapolis, Indiana 46278. Copies of this standard will be made available upon written request. You may submit your electronic requests and comments to darrell.brown@in.usda.gov.

FOR FURTHER INFORMATION CONTACT: Jane E. Hardisty, 317–290–3200.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that after enactment of the law, revisions made to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Indiana will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Indiana regarding disposition of those comments and a final determination of changes will be made.

Dated: February 20, 2001.

Jane E. Hardisty,

State Conservationist, Indianapolis, Indiana.

[FR Doc. 01–6288 Filed 3–13–01; 8:45 am]

BILLING CODE 3410–16–U

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Indiana

AGENCY: Natural Resources Conservation Service (NRCS), Agriculture.

ACTION: Notice of availability of proposed changes in section IV of the FOTG of the NRCS in Indiana for review and comment.

SUMMARY: It is the intention of NRCS in Indiana to issue a revised conservation practice standard in section IV of the FOTG. The revised standard is Shallow Water Management for Wildlife (646). This practice may be used in conservation systems that treat highly erodible land and/or wetlands.

DATES: Comments will be received until on or before April 13, 2001.

ADDRESSES: Address all requests and comments to Jane E. Hardisty, State Conservationist, Natural Resources Conservation Service (NRCS), 6013 Lakeside Blvd., Indianapolis, Indiana 46278. Copies of this standard will be made available upon written request. You may submit your electronic requests and comments to darrell.brown@in.usda.gov.

FOR FURTHER INFORMATION CONTACT: Jane E. Hardisty, 317–290–3200.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that after enactment of the law, revisions made to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Indiana will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Indiana regarding disposition of those comments and a final determination of changes will be made.

Dated: February 20, 2001.

Jane E. Hardisty,

State Conservationist, Indianapolis, Indiana.

[FR Doc. 01–6289 Filed 3–13–01; 8:45 am]

BILLING CODE 3410–16–U

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Indiana

AGENCY: Natural Resources Conservation Service (NRCS), Agriculture.

ACTION: Notice of availability of proposed changes in section IV of the FOTG of the NRCS in Indiana for review and comment.

SUMMARY: It is the intention of NRCS in Indiana to issue a revised conservation practice standard in section IV of the FOTG. The revised standard is Waste Utilization (633). This practice may be used in conservation systems that treat highly erodible land and/or wetlands.

DATES: Comments will be received until on or before April 13, 2001.

ADDRESSES: Address all requests and comments to Jane E. Hardisty, State Conservationist, Natural Resources Conservation Service (NRCS), 6013 Lakeside Blvd., Indianapolis, Indiana 46278. Copies of this standard will be made available upon written request. You may submit your electronic requests and comments to darrell.brown@in.usda.gov.

FOR FURTHER INFORMATION CONTACT: Jane E. Hardisty, 317–290–3200.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that after enactment of the law, revisions made to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Indiana will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Indiana regarding disposition of those comments and a final determination of changes will be made.

Dated: February 20, 2001.

Jane E. Hardisty,

State Conservationist, Indianapolis, Indiana.

[FR Doc. 01–6290 Filed 3–13–01; 8:45 am]

BILLING CODE 3410–16–U

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Indiana

AGENCY: Natural Resources Conservation Service (NRCS), Agriculture.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Indiana for review and comment.

SUMMARY: It is the intention of NRCS in Indiana to issue a revised conservation practice standard in section IV of the FOTG. The revised standard is Restoration and Management of Declining Habitats (643). This practice may be used in conservation systems that treat highly erodible land and/or wetlands.

DATES: Comments will be received until on or before April 13, 2001.

ADDRESSES: Address all requests and comments to Jane E. Hardisty, State Conservationist, Natural Resources Conservation Service (NRCS), 6013 Lakeside Blvd., Indianapolis, Indiana 46278. Copies of this standard will be made available upon written request. You may submit your electronic requests and comments to darrell.brown@in.usda.gov.

FOR FURTHER INFORMATION CONTACT: Jane E. Hardisty, 317–290–3200.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that after enactment of the law, revisions made to NRCS state technical guides used to carry out highly erodible land and wetland 2 provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Indiana will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Indiana regarding disposition of those comments and a final determination of changes will be made.

Dated: February 20, 2001.

Jane E. Hardisty,

State Conservationist, Indianapolis, Indiana.

[FR Doc. 01–6291 Filed 3–13–01; 8:45 am]

BILLING CODE 3410–16–U

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Communities' Access to Local Television; Request for Information

AGENCY: Rural Utilities Service, USDA.

ACTION: Request for public comment and notice of public discussion meetings.

SUMMARY: The Rural Utilities Service (RUS) seeks written comments and will host informal meetings with interested parties on implementing the provisions of Public Law 106–553, "Launching Our Communities' Access to Local Television Act of 2000" (the Act). The Act provides for a guaranteed loan program intended to facilitate access, on a technologically neutral basis, to signals of local television stations for households located in nonserved areas and underserved areas.

Among other matters, the Act requires the Administrator, RUS, to prescribe regulations to implement the Act and to issue and otherwise administer loan guarantees approved by a board of Federal officials. In order to afford the public the maximum opportunity to contribute to the development of this new program and to enable the Agency to consider as many options as possible, RUS is requesting comments to assist in the drafting of the proposed rule.

DATES: Interested parties must submit written comments on or before April 13, 2001. RUS encourages interested parties to make arrangements for informal meetings with RUS staff on or before April 13, 2001. By further notice in the **Federal Register**, RUS may terminate, limit, or otherwise modify the process of obtaining information from interested parties.

ADDRESSES: Submit written comments to Roberta D. Purcell, Assistant Administrator, Telecommunications Program, Rural Utilities Service, United States Department of Agriculture, 1400 Independence Av., SW., stop 1590, room 4056–S, Washington, DC 20250–1560. RUS requires, in hard copy, a signed original and 3 copies of all comments (7 CFR 1700.4). Comments will be available for public inspection during normal business hours (7 CFR part 1).

FOR FURTHER INFORMATION: To arrange an informal meeting, contact Roberta D. Purcell, Assistant Administrator, Telecommunications Program, Rural Utilities Service, United States Department of Agriculture, 1400 Independence Avenue, SW., stop 1590, room 4056–S, Washington, DC 20250–1560. Phone: 202–720–9554. Fax: 202–720–0810. E-mail: *bpurcell@rus.usda.gov.* All meetings will be arranged in a manner and at such times as are convenient to RUS. A meeting may include several interested parties.

SUPPLEMENTARY INFORMATION:

Background

On December 21, 2000, the President signed the "Launching Our Communities' Access to Local Television Act of 2000," Pub. L. 06–553 (the "Act"). The Act provides for the establishment of the Local Television Loan Guarantee Board (the "Board"), which consists of the Secretaries of Agriculture, Treasury, Commerce, and the Chair of the Board of Governors of the Federal Reserve System, or their designees. The Board may approve loan guarantees up to 80% of not in excess of $1.25 billion of loans, to facilitate access, on a technologically neutral basis, to signals of local television stations for households located in nonserved areas and underserved areas. The Act provides that, among other matters, the Administrator of RUS shall prescribe regulations to implement the Act and shall issue and otherwise administer loan guarantees approved by the Board. Congress has not yet provided appropriations for these guarantees, but may do so in the near future. The Act contains several specialized technical and business provisions and may be found in its entirety on the RUS website (*www.rurdev.usda.gov/rus*).

In light of its statutory role in implementing and administering the Act's loan guarantee program, RUS is currently analyzing the provisions of the Act, identifying issues potentially affecting the implementation of the program, and considering how the program can be effectively implemented. RUS is interested in receiving information regarding all aspects, including any financial and technological implications, of the program as well as analyses of any provisions of the Act that may present issues or practical problems in implementing the program. RUS invites interested parties including, but not limited to, financial and lending institutions, equipment providers, facility and other TV broadcast providers, cable and satellite providers, trade associations, consumer groups,

and individuals to comment on a series of questions and provide RUS, in writing and in informal meetings, any information or analyses they believe to be relevant to the implementation of the loan guarantee program.

Questions for Public Comment

Interested parties are requested to submit comments and are encouraged to participate in informal meetings regarding the implementation of a guaranteed loan program to provide the highest quality access to signals of local television stations to the largest number of rural households located in nonserved and underserved areas in the most economical and expedient manner. The questions below should serve as a guide and are not intended to limit comments or discussions regarding the guaranteed loan program.

1. Identify the technologies capable of providing high quality access to local television and the advantages and disadvantages of each (i.e. the financial, operational, and technological risks and rewards). For any wireless technology, what is the availability and estimated cost of sufficient spectrum?

2. What technology or combination of technologies would be the most cost effective method of delivering local TV signals to the largest number of nonserved and underserved rural residences not located in the top 40 designated market areas (as that term is defined in section 122(j) of title17, United States Code)?

3. What is an acceptable minimum quality of service? If a system can be expanded to deliver high quality (HDTV or neat HDTV) service, what criteria should be used to evaluate the system?

4. Identify the revenues and expenses associated with providing local broadcast signals. Discuss industry practices for setting fees for transmitting local signals.

5. What additional factors should be considered to accomplish the goals of the Act?

6. What, if any, effect will "must carry" have on the possible technologies being considered?

Dated: February 7, 2001.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

[FR Doc. 01–6248 Filed 3–13–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Census Bureau

2002 Census of Governments Local Government Directory Survey; Proposed Information Collection

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 14, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Forms Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *MClayton@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Robert McArthur, Chief, Program Evaluation Branch, Governments Division, U.S. Census Bureau, Washington, DC 20233–6800 (301 457–1582).

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau plans to request approval of the 2002 Census of Governments Local Government Directory Survey data collection forms: Form G–26 (County Governments), Form G–28 (Municipal and Township Governments), Form G–29 (Special District Governments), Form G–30 (Special District Governments), Form G–32 (Public School Systems), and Form G–33 (Public School Systems). These forms will be used for the following purposes: (1) To produce the official count of state and local government units in the United States; (2) to obtain descriptive information on the basic characteristics of governments; (3) to identify and delete inactive units; (4) to identify file duplicates and units that were dependent on other governments; and (5) to update and verify the mailing addresses of governments.

The 2002 Census of Governments Local Government Directory Survey consists of three basic content areas: government organization, government finance, and government employment. For government organization we will ask for authorizing legislation, incorporation date, fiscal year ending date, area served, services provided, web address, and corrections to the name and address of the government. In addition we will ask if special districts have taxing powers, if general purpose governments and special districts own and operate the services they are responsible for providing, if school districts operate schools, and if the government conducts e-government transactions. For government finance we will ask for total revenue, total expenditure, and total debt. For government employment we will ask for full-time employees, part-time employees, and annual payroll.

II. Method of Collection

Each of the 89,000 county governments, consolidated city-county governments, independent cities, towns, townships, special district governments, and public school systems designated for the census will be sent an appropriate form. Respondents will be asked to verify or correct the name and mailing address of the government, answer the questions on the form, and return the form.

The feasibility of electronic data collection will be explored.

III. Data

OMB Number: None.

Form Number: G–26, G–28, G–29, G–30, G–32, and G–33.

Type of Review: Regular.

Affected Public: County governments, consolidated city-county governments, independent cities, towns, townships, special district governments, and public school systems.

Estimated Number of Respondents: 89,000.

Estimated Time Per Response: 0.25 hours.

Estimated Total Annual Burden Hours: 22,250.

Estimated Total Annual Cost: $356,000.00.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 United States Code, Section 161.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c)

ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 8, 2001.

Madeleine Clayton,

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

[FR Doc. 01–6249 Filed 3–13–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Quarterly Financial Report; Proposed Information Collection

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506 (c) (2) (A).

DATES: Written comments must be submitted on or before May 14, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Department Forms Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *mclayton@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of the questionnaire should be directed to Ronald Horton, U.S. Census Bureau, Room 1282–3, Washington, DC 20233, Telephone (301) 457–3343.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Quarterly Financial Report (QFR) Program is planning to resubmit for approval to the Office of Management and Budget (OMB) its four data collection forms: Quarterly Financial Report Forms QFR–101 (MG)—long form, QFR–102 (TR)—long form, and QFR–101A(MG)—short form, and QFR–103 (NB)—Nature of Business Report. The current expiration for these forms is December 31, 2001.

The QFR Program has published up-to-date aggregate statistics on the financial results and position of U.S. corporations since 1947. It is a principal economic indicator that also provides financial data essential to calculation of key Government measures of national economic performance. The importance of this data collection is reflected by the granting of specific authority to conduct the program in Title 13 of the United State Code, Section 91, which requires that financial statistics of business operations be collected and published quarterly. Public Law 105–252 extended the authority of the Secretary of Commerce to conduct the QFR Program under Section 91 through September 30, 2005.

The QFR is scheduled to convert to the North American Industry Classification System (NAICS) in April 2002 with the publication of the fourth quarter 2001 data. With the adoption of the NAICS, a number of industries currently covered by QFR under the Standard Industrial Classification (SIC) system will be out of scope. Specifically, QFR will no longer collect data from companies primarily engaged in Publishing and Printing, except Commercial Printing; Logging; and Eating and Drinking Places. Publishing and Printing was moved to the NAICS' Information sector; Logging to the Agriculture, Forestry, Fishing, and Hunting sector; Eating and Drinking Places to the Accommodation and Food Services sector. Removal of companies previously operating in these industries will result in a reduction in sample size. That reduction is estimated to be approximately 350 companies or about 4 percent of the current QFR sample. The reduction in the out of scope SIC companies will offset an increase of in-scope NAICS companies. As a result, there will be a minimal change in sample size.

The main purpose of the QFR is to provide timely, accurate data on business financial conditions for use by Government and private-sector organizations and individuals. An extensive subscription mailing list attests to the diverse groups using these data including foreign countries, universities, financial analysts, unions, trade associations, public libraries, banking institutions, and U.S. and foreign corporations. The primary users are U.S. Governmental organizations charged with economic policymaking responsibilities. These organizations play a major role in providing guidance, advice, and support to the QFR Program.

II. Method of Collection

The Census Bureau will use mail out/mail back survey forms to collect data. Companies will be asked to respond to the survey within 25 days of the end of the quarter in which the data are being requested. Letters and/or telephone calls encouraging participation will be directed to respondents that have not responded by the designated time. The QFR has also begun limited optional use of a computer readable medium as a substitute for the completed form; i.e., the Computerized Self-Administered Questionnaire (CSAQ). The CSAQ can be completed and filed electronically via the internet, or by returning a diskette for electronic data capture. The CSAQ contains interactive edits and balancing features making it possible for the respondent to submit fewer data errors resulting in improved data. The number of respondents having optional use of the CSAQ will increase until full implementation which is expected by the fourth quarter 2002 report period. Use of the CSAQ will allow for easier and more timely filing of the QFR report and provide a reduction in respondent cost.

III. Data

OMB Number: 0607–0432.

Form Numbers: QFR–101 (Sent quarterly to Manufacturing, Mining, and Wholesale Trade corporations with assets of $50 million or more at time of sampling), QFR–102 (Sent quarterly to Retail Trade corporations with assets of $50 million or more at time of sampling), QFR–101A (Sent quarterly to Manufacturing corporations with assets of less than $50 million at time of sampling), and QFR–103 (Sent at the beginning of sampling selection and at 2-year intervals if the corporation is included in the sample for more than eight quarters).

Type of Review: Regular Review.

Affected Public: Manufacturing corporations with assets of $250 thousand or more and Mining, and Wholesale and Retail Trade corporations with assets of $50 million or more.

Estimated Number of Respondents: Form QFR–101—3,388 per quarter, 13,552 annually. Form QFR–102—497 per quarter, 1,988 annually. Form QFR–101A—4,340 per quarter, 17,360 annually. Form QFR–103—1,225 per quarter, 4,900 annually.

Estimated Time Per Response: The average for all respondents is about 2.1 hours. For companies completing form QFR 101 or QFR–102, the range is from

less than 1 to 10 hours, averaging 3.75 hours. For companies completing form QFR–101A, the range is less than 1 hour to 3 hours, averaging 1.2 hours. For companies completing form QFR–103, the range is from 1 to 4 hours, averaging 2.4 hours.

Estimated Total Annual Burden Hours: 78,000.

Estimated Total Annual Cost: $1,450,000.

Respondents' Obligation: Mandatory.

Legal Authority: Title 13 United States Code, Sections 91 and 224.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 8, 2001.

Madeleine Clayton,

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

[FR Doc. 01–6250 Filed 3–13–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee of Professional Associations

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (P.L. 92–463 as amended by P.L. 94–409), we are giving notice of a meeting of the Census Advisory Committee of Professional Associations. The Committee is composed of 36 members appointed by the Presidents of the American Economic Association, the American Statistical Association, the Population Association of America, and the Chairperson of the Board of the American Marketing Association. The Committee advises the Director, U.S. Census Bureau (Census Bureau), on the full range of Census Bureau programs and activities in relation to their areas of expertise.

DATES: The meeting will convene on April 26–27, 2001. On April 26, the meeting will begin at 9 a.m. and adjourn at 5:15 p.m. On April 27, the meeting will begin at 9 a.m. and adjourn at 12:30 p.m.

ADDRESSES: The meeting will take place at the Hilton Alexandria Mark Center Hotel, 5000 Seminary Road, Alexandria, Virginia 22311.

FOR FURTHER INFORMATION CONTACT: Census Bureau Committee Liaison Officer, Ms. Maxine Anderson-Brown, Room 1647, Federal Building 3, Washington, DC 20233. Her phone number is (301) 457–2308, TDD (301) 457–2540.

SUPPLEMENTARY INFORMATION: The agenda for the meeting on April 26, which will begin at 9 a.m. and adjourn at 5:15 p.m., is as follows:

- Introductory Remarks by the Acting Director, Census Bureau, and the Principal Associate Director for Programs, Census Bureau
- Census Bureau Responses to Committee Recommendations
- Next Generation Information Products for Posting on the Census Bureau Web Site at <www.census.gov>
- Census 2000 Adjustment Decision
- Survey of the Advisory Committees
- E-Business Supplement to the Annual Survey of Manufactures
- Expanding the Census Bureau Data Dissemination Network
- Insights Gained from Analysis of State Unemployment Data by Longitudinal Employer Household Dynamics Staff
- Evaluations of the Census 2000 Accuracy and Coverage Evaluation Survey
- Experimental Measures of Poverty: A Progress Report
- Evaluating Census 2000 Products
- Customer Service Week

The agenda for the meeting on April 27, which will begin at 9 a.m. and adjourn at 12:30 p.m., is as follows:

- Chief Economist Update
- 2010 Planning Update
- Develop Recommendations and Address Special Interest Activities
- Closing Session

The meeting is open to the public, and a brief period is set aside, during the closing session, for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer. Individuals wishing additional information or minutes regarding this meeting may contact the Officer as well. Her address and phone number are identified under this notice's **FOR FURTHER INFORMATION CONTACT** heading.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Census Bureau Committee Liaison Officer.

Dated: March 8, 2001.

William G. Barron, Jr.,

Acting Director, Bureau of the Census.

[FR Doc. 01–6325 Filed 3–13–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–815 & A–580–816]

Notice of Amended Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to final results of antidumping duty administrative reviews and intent not to revoke antidumping duty order in part.

SUMMARY: The Department of Commerce ("Department") is amending its final results of reviews of the antidumping duty orders on certain cold-rolled and corrosion-resistant carbon steel flat products from Korea, published January 16, 2001, to reflect the correction of ministerial errors in those final results. The period covered by these amended final results is August 1, 1998 through July 31, 1999.

EFFECTIVE DATE: March 14, 2001.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld (the POSCO Group), Marlene Hewitt (Dongbu) and (Union), or James Doyle, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone 202–482–0172 (Panfeld), 202–482–1385 (Hewitt), or 202–482–0159 (Doyle), fax 202–482–1388.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 ("Act") are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 C.F.R. part 351 (1999).

Scope of the Reviews

The review of "certain cold-rolled carbon steel flat products" covers cold-rolled (cold-reduced) carbon steel flat-rolled products, of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished or coated with plastics or other nonmetallic substances, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule ("HTS") under item numbers 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2550, 7209.18.6000, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7215.50.0015, 7215.50.0060, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in this review are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling")—for example, products which have been beveled or rounded at the edges. Excluded from this review is certain shadow mask steel, *i.e.*, aluminum-killed, cold-rolled steel coil that is open-coil annealed, has a carbon content of less than 0.002 percent, is of 0.003 to 0.012 inch in thickness, 15 to 30 inches in width, and has an ultra flat, isotropic surface.

The review of "certain corrosion-resistant carbon steel flat products" covers flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in this review are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling")—for example, products which have been beveled or rounded at the edges. Excluded from this review are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead ("terne plate"), or both chromium and chromium oxides ("tin-free steel"), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from this review are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded from this review are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%–60%–20% ratio.

These HTS item numbers are provided for convenience and U.S. Customs purposes. The written descriptions remain dispositive.

Amendment of Final Results

On January 16, 2001, the Department published the final results of its administrative reviews of the antidumping duty orders on certain cold-rolled and corrosion-resistant carbon steel flat products from Korea, for the period August 1, 1998 through July 31, 1999. *See Certain Cold-rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Final Results of Antidumping Duty Administrative Reviews*, 66 FR 3540 (hereinafter "*Final Results*"). The reviews covered shipments of subject merchandise by Dongbu Steel Co., Ltd. ("Dongbu"), Union Steel Manufacturing Co., Ltd. ("Union"), and Pohang Iron and Steel Co., Ltd. ("POSCO"). (POSCO and the companies collapsed with POSCO (Pohang Coated Steel Co., Ltd. (POCOS") and Pohang Steel Industries Co., Ltd. ("PSI"), are collectively referred to as "the POSCO Group.")

On January 22, 2001, Union submitted clerical error allegations with respect to its margin calculations, and Petitioners submitted clerical error allegations with respect to POSCO's margin calculations. On January 23, 2001, POSCO submitted clerical error allegations with respect to its margin calculations. On January 29, 2001, Petitioners and POSCO submitted comments on each other's respective allegations. The allegations and comments were filed in a timely fashion.

Union

Comment 1: Union alleges that the Department committed a clerical error, when, in implementing the fungibility principle adopted in the *Final Results*, it failed to employ a methodology which eliminates the double-counting of imputed credit expenses. Union proposes to the Department a methodology that it says is correct and consistent with the Department's statements in the *Final Results*. Union argues that the first step in the Department's calculation of the U.S. Indirect Selling Expense ("ISEs") interest factor should be to identify the amount of actual interest expense allocated to Cold-Rolled ("CR") and Corrosion-Resistant ("CORE") as shown in Union's calculations. Only after identifying the amount of interest

expense allocated can the Department perform an "apples-to-apples" calculation and deduct the amount of imputed credit expenses calculated for CR and CORE to determine if there is any basis to "add any remainder to the pool of ISEs." Union claims that with its proposed methodology, the Department would find that Union's ISE for CR and CORE consist solely of non-financial ISEs.

Petitioners state this clerical error allegation argues the merit of an alternative methodology for calculating Union's imputed credit expenses, and that Union concedes that its argument is methodological, not ministerial. Petitioners conclude that as the alleged error is not ministerial, but methodological, Union's allegation with respect to the Department's methodology must be rejected.

Department's position: After reviewing both parties' comments, we have determined that the above mentioned points raised by Union do not meet the definition of ministerial error under section 751(h) of the Act and 19 CFR 351.224(f). The Department's decision of whether to calculate imputed credit expenses for all merchandise when correcting for double counting is not a mistake of "addition or subtraction or other arithmetic function" or "other similar types of unintentional error" within the meaning of 19 CFR 351.224(f). Instead, this allegation suggests a distinct methodology for correcting this double-counting. See *Final Results*, 66 FR at 3541 and accompanying Issues and Decision Memo at Comment 1.

Comment 2: Union argues that the Department erred in its calculation of Union's U.S. indirect selling expense ("ISE") factor. Specifically, the Department failed to eliminate the double-counting of actual interest expenses and imputed credit expenses in its calculation by first subtracting imputed credit from net interest expenses and then adding imputed credit back to net interest expenses rather then adding the indirect selling expenses to the remaining interest expenses.

Petitioners agreed with Union that the Department made a clerical error in its calculations of Union's U.S. ISEs. The Department erroneously both subtracted from and added U.S. imputed credit expenses to the financial expense component of DKA's indirect selling expenses and thus failed to account for any double-counting of credit. Petitioners stated that in order to correct this error, the Department should correct its definitions of "interest factor" and "ISE Factor" such that non-financial ISEs are included in the ISEs calculations. Non-financial ISEs are presently omitted from the Department's calculations.

Department's Position: We reviewed the allegation and response and we agree with Union and Petitioners that there is an unintentional error in our calculation of Union's U.S. ISE Factor. Specifically, when the Department attempted to eliminate the double counting of imputed credit expenses in its calculation, it did not intend to both add and subtract U.S. imputed credit expense in the calculation. See *Final Results*, 66 FR at 3541 and accompanying Issues and Decision Memo at Comment 1. Accordingly, we recalculated the interest factor by deducting the imputed credit expense from the interest factor. We then recalculated the U.S. indirect selling expenses by using the corrected interest factor. We have corrected both our ISE calculations and the implementing programming language. See, the Memorandum from Marlene Hewitt to Edward Yang, dated February 16, 2001.

Comment 3: Union alleges that the Department erred by applying its VAT correction factor to local sales when calculating home market credit expenses. Specifically, Union argues that the Department should not have applied the VAT correction factor to local sales because the credit expense for local sales was calculated on a shipment by shipment basis. Instead, Union points out that it is the Department's practice to only apply the VAT correction factor to home market credit expenses reported using the receivables turnover methodology.

Petitioners stated that they agree with Union that the Department made a clerical error by applying its VAT correction factor for home market credit expenses to Union's local sales.

Department's Position: We agree with Union and Petitioners that the Department inadvertently applied its correction factor for calculating home market credit expenses to local sales. We have corrected the program to distinguish between local sales and home market sales that reported credit expense using the receivables-turnover method and applied the home credit expense only to home market sales that were reported using the receivables-turnover method. *See*, the Memorandum from Marlene Hewitt to Edward Yang, dated February 16, 2001.

POSCO

Comment 1: POSCO alleges that the Department committed a clerical error when, in implementing the fungibility principle adopted in the *Final Results*, (66 FR at 3541), it failed to allocate the U.S. affiliate's interest expenses to all activities (sales and investment) of the U.S. affiliate. Specifically, POSCO argues that the Department allocated the total interest expenses to the total sales, whereas the affiliate also has significant investment activities *i.e.* a joint venture. POSCO concludes that the Department should recalculate interest expense also considering the investment activities of affiliates.

Petitioners argue that the asserted "ministerial error" raised by POSCO is not the type of unintentional error listed in section 735(e) of the Act or 19 CFR 351.224(f) of the regulations. POSCO does not point to any incorrect operations of addition, subtraction, or any other arithmetic function. Instead, the issue POSCO raises deals with what methodology best allocates POSAM's U.S. interest expenses to subject merchandise. According to Petitioners, the Department's decision, which correctly assigned the financial indirect selling expenses of POSAM to the sales revenues that are absorbing those costs is not an unintentional ministerial error, but is instead an intentional methodological decision which the Department took after weighing POSCO's extensive briefing on this topic.

Department's Position: After reviewing POSCO's and Petitioners comments, we have determined that the above mentioned points raised by POSCO do not meet the definition of ministerial error under section 751(h) of the Act and 19 CFR 351.224(f). The Department's decision of whether to allocate interest expense to the activities of the joint venture is not a mistake of "addition or subtraction or other arithmetic function" or "other similar types of unintentional error" within the meaning of 19 CFR 351.224(f). Instead, this allegation suggests a distinct methodology for including interest expenses incurred by U.S. affiliates in the pool of U.S. ISEs. For a full discussion of the Department's methodological choice see the *Final Results* 66 FR at 3541 and its accompanying *Issues and Decision Memorandum* at Comment 1.

Comment 2: POSCO alleges that the Department committed a clerical error by failing to correct for double-counting of imputed credit expenses and inventory financing expenses. Specifically, when the Department adjusted interest expenses to avoid double-counting, it subtracted only those imputed credit expenses associated with subject merchandise and failed to subtract imputed credit expenses associated with non-subject

merchandise. In addition, POSCO argues that under the fungibility principle that the Department adopted for its Final Result, (66 FR at 3541 and accompanying Issues and Decision Memorandum at Comment 1), all debt and equity finance all assets. Thus, the interest expense is by definition attributable, in part, to financing U.S. inventories. However, the Department's calculations erroneously failed to eliminate this portion of expense from the total interest expense.

Petitioners argue that the Department's decision not to deduct imputed credit expenses for non-subject merchandise was an intentional methodological decision, not a ministerial error. POSCO points to no arithmetic error or clerical error to support a ministerial error allegation. Instead, Petitioners assert that the issue POSCO raises deals with what methodology best accounts for imputed credit expenses on non-subject merchandise in U.S. interest expenses in order to avoid double-counting. POSCO's argument that the Department must deduct imputed credit expenses on non-subject merchandise from U.S. interest expense in order to avoid double-counting is wrong. According to Petitioners, the Department's margin calculations do not deduct imputed or actual credit expenses related to non-subject merchandise from U.S. price as suggested by POSCO. The Department should refuse to consider POSCO's second alleged "ministerial error" claim.

Department's Position: After reviewing POSCO's comments, we have determined that the above mentioned points raised by POSCO do not meet the definition of ministerial error in section 751(h) of the Act and 19 CFR 351.224(f). The Department's decision that no portion of U.S. interest expenses should be segregated and attributed to non-subject merchandise sales is not a mistake of "addition or subtraction or other arithmetic function" or "other similar types of unintentional error" within the meaning of 19 CFR 351.224(f). See *Final Results*, 66 FR at 3541 and accompanying Issues and Decision Memo at Comment 1.

Comment 3: Petitioners allege that the Department committed a clerical error when it attempted to offset total interest with interest income in the U.S. ISE calculations. Specifically, Petitioners argue that the Department used the total interest income as an offset, whereas it should have limited the offset to short-term interest income, as it is the Department's longstanding policy to allow an offset only for interest income that is short-term in nature.

POSCO argues that the Department correctly and appropriately relied on net interest expense as the starting point for calculating the interest expense component of POSCO's U.S. indirect selling expense. As indicated in the Decision Memorandum, the Department's calculation of U.S. indirect selling expenses includes all "money", *i.e.* interest expense and interest income, of the U.S. affiliate. The Department's calculations thus correctly execute the Department's intent to include total interest expense and total interest income in the calculation of U.S. ISEs. Petitioners allegation of a clerical error should be rejected by the Department.

Department's Position: After reviewing Petitioners' and POSCO's comments, we have determined that the above mentioned points raised by Petitioners do not meet the definition of ministerial error under section 751(h) of the Act and 19 CFR 351.224(f). Our treatment of the interest income, used to offset the interest expense included in POSCO's U.S. indirect selling expenses, is not a mistake of "addition or subtraction or other arithmetic function" or "other similar types of unintentional error" within the meaning of 19 CFR 351.224(f).

Comment 4: Petitioners argue that the Department erred in making an adjustment to home market credit expenses in the corrosion-resistant margin calculations. Specifically, the adjusting factor was mis-typed at one point in the program.

Department's Position: We agree with Petitioners that the Department created a ministerial error in making this adjustment to home market credit in the corrosion-resistant margin program. The adjusting factor was incorrect. The Department has corrected the program accordingly.

Comment 5: Petitioners argue that the Department erred in creating two additional U.S. tolerance weights used in the cold-rolled margin program by naming them "CRTOLERM" rather than "CRTOLERS."

Department's Position: We agree with Petitioners. The Department intended to name the tolerance weights "CRTOLERS". We have corrected the program accordingly.

Amended Final Results of the Reviews

AMENDED FINAL RESULTS OF THE REVIEWS

Producer/manufacturer/exporter	Weighted-average margin
Certain Cold-Rolled Carbon Steel Flat Products	
*Dongbu	1.35
The POSCO Group	0.73
Union	1.94
Certain Corrosion-Resistant Carbon Steel Flat Products	
*Dongbu	0.13
The POSCO Group	2.24
Union	0.29

*Not affected by these Amended Final Results.

The Department shall determine, and the U.S. Customs Service ("Customs") shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated exporter/importer-specific assessment rates. With respect to both export price and constructed export price sales, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. We will direct Customs to assess the resulting percentage margins against the entered Customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of amended final results of administrative reviews for all shipments of cold-rolled and corrosion-resistant carbon steel flat products from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates shown above except that, for firms whose weighted-average margins are less than 0.5 percent and therefore *de minimis*, the Department shall require no deposit of estimated antidumping duties; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value ("LTFV") investigation, but the manufacturer is, the cash deposit rate will be the rate

established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 14.44 percent (for certain cold-rolled carbon steel flat products) or 17.70 percent (for certain corrosion-resistant carbon steel flat products). These rates are the "all others" rates from the LTFV investigations. *See Antidumping Duty Orders on Certain Cold-Rolled Carbon Steel Flat Products and Certain Corrosion-Resistant Carbon Steel Flat Products from Korea*, 58 FR 44159 (August 19, 1993).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of Assistant Secretary of Import Administration.

Dated: March 6, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–6363 Filed 3–13–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Postponement of Time Limits for Preliminary Results of New-Shipper Antidumping Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Postponement of Time Limits for Preliminary Results of New-Shipper Antidumping Duty Review.

EFFECTIVE DATE: March 14, 2001.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3477 and (202) 482–4477, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's regulations are to 19 CFR part 351 (2000).

Background

In a letter dated November 29, 2000, as amended on December 7, 2000, the Department of Commerce (the Department) received a request from Clipper Manufacturing Ltd. (Clipper) to conduct a new-shipper review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) pursuant to 19 CFR 351.214. On January 3, 2001 (66 FR 350), the Department initiated the new-shipper antidumping administrative review covering the period June 1, 2000, through November 30, 2000. The preliminary antidumping duty results in the new-shipper review were scheduled originally for June 24, 2001.

Postponement of New-Shipper Review

On February 9, 2001, the Department received a request from the petitioners, members of the Fresh Garlic Producers Association, to align the new-shipper review with the 1999/2000 administrative review of the antidumping duty order on fresh garlic from the PRC. In a letter dated February 15, 2001, Clipper Manufacturing Ltd., in accordance with 19 CFR 351.214(j)(3), agreed to waive the applicable new-shipper time limits to its new-shipper review so that the Department could conduct the new-shipper review concurrently with the 1999/2000 administrative review of the order. Therefore, pursuant to the petitioners' request and the respondent's waiver, and in accordance with the regulations, we are conducting this review concurrently with the 1999/2000 administrative review of the order on fresh garlic from the PRC. As a result, the date of preliminary antidumping duty results in the new-shipper review will now be August 2, 2001, and the date of final antidumping duty results in the new-shipper review will be November 30, 2001.

This notice is published in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(j)(3).

Dated: March 6, 2001.

Richard W. Moreland,

Deputy Assistant Secretary, AD/CVD Enforcement I.

[FR Doc. 01–6360 Filed 3–13–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE:

International Trade Administration

[A–475–811]

Grain-Oriented Electrical Steel From Italy: Final Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On September 7, 2000, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on grain-oriented electrical steel from Italy. This review covers one manufacturer/exporter of the subject merchandise to the United States during the period of review (POR), August 1, 1998 through July 31, 1999. Based on our analysis of the comments received, we have made changes in the margin calculations. As a result, we have determined that no margin exists for Acciai Speciali Terni S.p.A. (AST).

EFFECTIVE DATE: March 14, 2001.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Steve Bezirganian, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and

Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0405 or (202) 482–1131, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act") are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1999).

Background

On September 7, 2000, the Department of Commerce ("the Department") published the preliminary results of the administrative review of the antidumping duty order on grain-oriented electrical steel from Italy. See Grain-Oriented Electrical Steel From Italy: Notice of Preliminary Results of Antidumping Duty Administrative Review, 65 FR 54215 ("Preliminary Results"). The period of administrative review ("POR") is August 1, 1998, through July 31, 1999. This review covers one manufacturer/exporter of the subject merchandise to the United States. We invited parties to comment on our preliminary results. On November 15, 2000, we received case briefs from Acciai Speciali Terni S.p.A. and Acciai Speciali Terni USA, Inc. (collectively, "AST"), the sole respondent in this case, and from Allegheny Ludlum Corp., AK Steel, the Butler Armco Independent Union, the United Steelworkers of America, and the Zanesville Armco Independent Union (hereinafter the "petitioners"). Both parties filed rebuttal briefs on November 27, 2000. At AST's request, a public hearing was held on January 29, 2001. The Department issued to AST an additional supplemental questionnaire dealing with in-bond transaction issues on February 13, 2001. AST responded to this questionnaire on February 20, 2001, and petitioners commented on this AST response on February 22, 2001. AST and petitioners filed additional submissions pertaining to in-bond transactions on February 26, 2001 and February 27, 2001, respectively. The Department has conducted this review in accordance with section 751(a) of the Act.

Scope of Review

The product covered by this review is grain-oriented silicon electrical steel, which is a flat-rolled alloy steel product containing by weight at least 0.6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, of a thickness of no more than 0.560 millimeters, in coils of any width, or in straight lengths which are of a width measuring at least 10 times the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 7225.30.7000, 7225.40.7000, 7225.50.8085, 7225.99.0090, 7226.11.1000, 7226.11.9030, 7226.11.9060, 7226.91.7000, 7226.91.8000, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0000, 7228.30.8050, and 7229.90.1000. Although the HTS subheadings are provided for convenience and customs purposes, our written descriptions of the scope of these proceedings are dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the "Issues and Decision Memorandum" ("Decision Memorandum") from Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration, Enforcement Group III, to Bernard T. Carreau, fulfilling the duties of Assistant Secretary for Import Administration, dated March 6, 2001, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in room B–099 of the Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://ia.ita.doc.gov*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Change in the Preliminary Results

Based on our analysis of comments received, we have made certain changes in the margin calculations. These changes are discussed in the relevant section of the Decision Memorandum.

Final Results of Review

We determine that a margin of zero percent exists for sales of subject merchandise by AST for the period August 1, 1998 through July 31, 1999. The Department shall instruct the U.S. Customs Service to liquidate all appropriate entries without regard to antidumping duties. The Department will also instruct Customs to release any cash deposits or bonds posted. If applicable, the Department will further instruct Customs to refund with interest any cash deposits on entries made from August 1, 1998 through July 31, 1999.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of grain-oriented electrical steel from Italy, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a) of the Act: (1) for AST, the Department shall require no deposit of estimated antidumping duties; (2) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) the cash deposit rate for all other manufacturers or exporters will continue to be 60.79 percent, the "all others" rate made effective by the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review. The Department will issue appraisement instructions directly to the Customs Service.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under section 351.402(f)(2) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing this administrative review and notice in

accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: March 6, 2001.

Timothy J. Hauser,

Acting Under Secretary for International Trade.

Appendix—Comments and Responses

1. In-Bond Transactions
2. Level of Trade
3. CEP Offset
4. Rebates
5. Technical Service Expenses
6. Warranty Expenses
7. Unreported U.S. Sales

[FR Doc. 01–6358 Filed 3–13–01; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–811, A–588–831, C–475–812]

Continuation of Antidumping Duty Orders and Countervailing Duty Order: Grain-Oriented Silicon Electrical Steel From Italy and Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of continuation of antidumping duty orders and countervailing duty order: grain-oriented silicon electrical steel from Italy and Japan.

SUMMARY: On July 5, 2000, and November 1, 2000, the Department of Commerce ("the Department"), pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended ("the Act"), determined that revocation of the antidumping duty orders on grain-oriented silicon electrical steel ("GOES") from Italy and Japan (65 FR 41433) and the countervailing duty order on GOES from Italy (65 FR 65295) would be likely to lead to continuation or recurrence of dumping, or countervailable subsidy, as applicable.

On March 1, 2001, the International Trade Commission ("the Commission"), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty orders and the countervailing duty order on GOES from Italy and Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (66 FR 12958 (March 1, 2001)). Therefore, pursuant to 19 CFR 351.218(f)(4), the Department is publishing this notice of continuation of the antidumping duty orders and the countervailing duty order on GOES from Italy and Japan.

EFFECTIVE DATE: March 14, 2001.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or James P. Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14 Street and Constitution Ave., NW, Washington, D.C. 20230; telephone: (202) 482–5050 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION

Background

On December 1, 1999, the Department initiated (64 FR 67247), and the Commission instituted (64 FR 67318), sunset reviews of the antidumping duty orders and the countervailing duty order on GOES from Italy and Japan pursuant to section 751(c) of the Act. As a result of these reviews, the Department found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margins likely to prevail were the orders revoked.[1] In addition, the Department found that revocation of the countervailing duty order would likely lead to continuation of a countervailable subsidy and notified the Commission of the net subsidy likely to prevail, as well as the nature of the subsidy.[2]

On March 1, 2001, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders and the countervailing duty order on GOES from Italy and Japan would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

Scope of the Orders

The scope of these orders includes GOES, which is a flat-rolled alloy steel product containing by weight at least 0.6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, of a thickness of no more than 0.56 millimeters, in coils of any width, or in straight lengths which are of a width measuring at least 10 times the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States ("HTS") under item numbers 7225.10.0030, 7226.10.1030, 7226.10.5015, and 7226.10.5056. Although the HTS subheadings are provided for convenience and customs purposes, our written descriptions of the scope of these orders are dispositive.

Determination

As a result of the determinations by the Department and the Commission that revocation of the antidumping duty orders and the countervailing duty order would likely lead to continuation or recurrence of dumping or countervailable subsidies, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty orders and the countervailing duty order on GOES from Italy and Japan. The effective date of continuation of this order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to section 751(c)(2) and 751(c)(6)(A) of the Act, the Department intends to initiate the next five-year review of this order not later than February 2006.

Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: March 8, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–6364 Filed 3–13–01; 8:45 am]
BILLING CODE 3510–DS–P

[1] Grain-Oriented Electrical Steel From Italy and Japan; Final Results of Expedited Sunset Reviews of Antidumping Duty Orders, 65 FR 41433 (July 5, 2000).

[2] Grain-Oriented Electrical Steel from Italy; Final Results of Full Sunset Review of Countervailing Duty Order, 65 FR 65295 (November 1, 2000).

[3] Grain-Oriented Silicon Electrical Steel From Italy and Japan, 66 FR 12958 (March 1, 2001) and USITC Publication 3396 (February 2001), Investigation Nos. 701–TA–355 and 701–TA–659–660 (Review).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–802]

Gray Portland Cement and Clinker From Mexico; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On September 7, 2000, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. On January 5, 2001, and January 31, 2001, the Department of Commerce published notices of extension of the due date for the final

results. The review covers one manufacturer/exporter, CEMEX, S.A. de C.V. (CEMEX), and its affiliate, Cementos de Chihuahua, S.A. de C.V. (CDC). The period of review is August 1, 1998, through July 31, 1999.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margin is listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: March 14, 2001.

FOR FURTHER INFORMATION CONTACT: David Dirstine or Minoo Hatten, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4033 and (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (April 1999).

Background

On September 7, 2000, the Department published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. *Preliminary Results of Antidumping Duty Administrative Review: Gray Portland Cement and Clinker From Mexico,* 65 FR 54220 (September 7, 2000) (preliminary results). On January 5, 2001, and January 31, 2001, the Department published notices of extension of final results. *Gray Portland Cement and Clinker From Mexico; Notice of Extension of Final Results of Antidumping Duty Administrative Review,* 66 FR 1078 (January 5, 2001) and 66 FR 8384 (January 31, 2001). As discussed in detail in the preliminary results of review, we have collapsed CEMEX and CDC for this review and calculated a single weighted-average margin for these companies.

We invited parties to comment on our preliminary results of review. The Department has conducted this administrative review in accordance with section 751(a) of the Act.

Scope of the Review

The products covered by this review include gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material product produced when manufacturing cement, has no use other than being ground into finished cement. Gray portland cement is currently classifiable under Harmonized Tariff Schedule (HTS) item number 2523.29 and cement clinker is currently classifiable under HTS item number 2523.10. Gray portland cement has also been entered under HTS item number 2523.90 as "other hydraulic cements." The HTS subheadings are provided for convenience and customs purposes only. The Department's written description remains dispositive as to the scope of the product coverage.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by interested parties to this administrative review are addressed in the "Decision Memorandum for the Final Results" (Decision Memorandum) from Richard W. Moreland, Deputy Assistant Secretary for Import Administration, to Bernard T. Carreau, Deputy Assistant Secretary, AD/CVD Enforcement II, dated March 5, 2001, which is hereby adopted into this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B–099 of the main Department Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have reclassified certain reported export price sales as constructed export price sales and made certain changes in the margin calculations. We have also corrected certain programming and clerical errors in our preliminary results, where applicable. These changes as well as any alleged programming or clerical errors with which we do not agree are discussed in the relevant sections of the Decision Memorandum.

Final Results of Review

We determine that the following weighted-average margin exists for the collapsed parties, CEMEX and CDC, for the period August 1, 1998, through July 31, 1999:

Company	Margin
CEMEX/CDC	39.34%

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated an exporter/importer-specific assessment value. The Department will issue appraisement instructions directly to the Customs Service.

Cash Deposit Requirements

The following deposit requirements shall be effective upon publication of this notice of final results of administrative review for all shipments of gray portland cement and clinker from Mexico, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rate for CEMEX/CDC will be 39.34 percent; (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this or any previous reviews or the original less-than-fair-value (LTFV) investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 61.85 percent, which was the "all others" rate in the LTFV investigation. *See Final Determination of Sales at Less Than Fair Value: Gray Portland Cement and Clinker from Mexico,* 55 FR 29244 (July 18, 1990).

The deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption

that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 6, 2001.

Timothy J. Hauser,

Acting Under Secretary for International Trade.

Appendix—List of Issues

1. Revocation
2. Ordinary Course of Trade
3. Constructed Export Price Calculation
4. Level of Trade
5. Regional Assessment
6. Bag vs. Bulk
7. Difference-in-Merchandise Calculation
8. Assessment-Rate Calculation
9. Financing Cash Deposits
10. Export Price Sales
11. Contrucentro's Employee Sales
12. Ministerial Errors
    a. CDC's Employee Sales
    b. Programming Errors

[FR Doc. 01–6359 Filed 3–13–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–831]

Stainless Steel Plate in Coils From the Republic of Korea: Extension of Time Limit for the Preliminary and Final Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for the preliminary and final results of antidumping duty administrative review.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for the preliminary and final results of the review of stainless steel plate in coils from the Republic of Korea. This review covers the period November 4, 1998 through April 30, 2000.

EFFECTIVE DATE: March 14, 2001.

FOR FURTHER INFORMATION CONTACT: Rick Johnson at (202) 482–3818; Office of AD/CVD Enforcement, Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA).

Postponement of Preliminary and Final Results

On December 26, 2000, we published an extension of the preliminary results by 45 days. *See* 65 FR 81488. The Department has now determined that it is not practicable to issue its preliminary and final results of the administrative review within the current time limit of March 17, 2001, and July 15, 2001. *See Decision Memorandum from Edward C. Yang, Director, Office 9, to Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III.* Therefore, the Department is extending the time limit for completion of the preliminary results until May 31, 2001, in accordance with section 751(a)(3)(A) of the Act. In addition, the Department is extending the time limit for completion of the final results until 180 days after the date of publication of the preliminary results, in accordance with section 751(a)(3)(A) of the Act.

Dated: March 7, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 01–6362 Filed 3–13–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–834]

Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for the preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce ("Department") is extending the time limit for the preliminary results of the review of stainless steel sheet and strip in coils from the Republic of Korea. This review covers the period January 4, 1999 through June 30, 2000.

EFFECTIVE DATE: March 14, 2001.

FOR FURTHER INFORMATION CONTACT: Rick Johnson, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3818.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA").

Extension of Time Limit for Preliminary Results

On January 5, 2001, we published an extension of the preliminary results by 90 days. *See* 66 FR 01386. Because of the complex issues enumerated in the Memorandum from Edward C. Yang to Joseph A. Spetrini, *Extension of Time Limit for the Preliminary Results of Administrative Review of Certain Stainless Steel Sheet and Strip in Coils from Korea,* on file in the Central Records Unit (CRU) of the Main Commerce Building, Room B–099, we find that it is not practicable to complete this review by the scheduled deadline of July 2, 2001. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for issuing the preliminary results of review by 30 days until August 1, 2001.

Dated: March 7, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–6361 Filed 3–13–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On February 23, 2001, Gerdau MRM Steel filed a first request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free-Trade Agreement. Panel review was requested of the final results of the final Determination of Circumvention of the Antidumping order: Cut-To-Length Carbon Steel Plate From Canada made by the United States.International Trade Administration. These determinations were published in the **Federal Register**, (66 FR 7627) on January 24, 2001. The NAFTA Secretariat has assigned Case Number USA–CDA–01–1904–01 to this request.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, NW., Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on February 23, 2001, requesting panel review of the final determination described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first request for Panel Review (the deadline for filing a Complaint is March 26, 2001);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first request for Panel Review (the deadline for filing a Notice of Appearance is April 9, 2001); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: March 5, 2001.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. 01–6318 Filed 3–13–01; 8:45 am]

BILLING CODE 3510–GT–U

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Solicitation of Applications for Allocation of Tariff Rate Quotas on the Import of Certain Worsted Wool Fabrics

AGENCY: Department of Commerce, International Trade Administration

ACTION: The Department of Commerce is soliciting applications for an allocation of the 2001 tariff rate quotas on certain worsted wool fabric.

DATES: To be considered, applications must be received or postmarked by 5:00 p.m. on April 13, 2001.

ADDRESSES: Applications must be submitted to: Industry Assessment Division, Office of Textiles and Apparel, Room 3100, United States Department of Commerce, Washington, D.C. 20230 (telephone: (202) 482–4058). Application forms may be obtained from that office (via facsimile or mail) or from the following internet address: http://web.ita.doc.gov/tacgi/wooltrq.nsf/TRQApp.

FOR FURTHER INFORMATION CONTACT: Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4058.

The Department of Commerce (Department) hereby solicits applications from persons (including firms, corporations, or other legal entities) who cut and sew men's and boys' worsted wool suits and suit-like jackets and trousers for an allocation of the 2001 tariff rate quotas on certain worsted wool fabric. Interested persons must submit an application on the form provided to the address listed above by 5:00 p.m. on April 13, 2001. Application forms may be obtained from that office (via facsimile or mail) or from the following internet address: http://web.ita.doc.gov/tacgi/wooltrq.nsf/TRQApp.

The Department will cause to be published in the Federal Register its determination to allocate the 2001 tariff rate quotas and will notify applicants of their respective allocation as soon as possible after that date. Promptly thereafter, the Department will issue licenses to eligible applicants. The 2002 and 2003 tariff rate quotas will be allocated at a later date.

BACKGROUND: Title V of the Trade and Development Act of 2000 (the Act) created two tariff rate quotas, providing for temporary reductions in the import duties on limited quantities of two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers: (1) for worsted wool fabric with average fiber diameters greater than 18.5 microns (new Harmonized Tariff Schedule of the United States (HTS) heading 9902.51.11); and (2) for worsted wool fabric with average fiber diameters of 18.5 microns or less (new HTS heading 9902.51.12). The first tariff rate quota year commenced on January 1, 2001 and ends on December 31, 2001. Annual imports under 9902.51.11 are limited to 2,500,000 square meters, and annual imports under 9902.51.12 are limited to 1,500,000 square meters; these limits may be modified by the President.

The Act requires that the tariff rate quotas be allocated to persons who cut and sew men's and boys' worsted wool suits, suit-type jackets and trousers in the United States. On January 22, the Department published regulations establishing procedures for allocating the tariff rate quotas. 66 FR 6459, 15 CFR 335. In order to be eligible for an allocation, an applicant must submit an application on the form provided to the address listed above by 5:00 p.m. on April 13, 2001 in compliance with the requirements of 15 CFR 335.

Any business confidential information that is marked business confidential will be kept confidential

and protected from disclosure to the full extent permitted by law.

Dated: March 6, 2001.

Donald L. Evans,

Secretary, United States Department of Commerce.

[FR Doc. 01–6406 Filed 3–12–01; 11:42 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 022701F]

Advisory Committee to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas (ICCAT); Spring Species Working Group Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Advisory Committee to the U.S. Section to ICCAT announces its spring meeting with its Species Working Groups on April 9 and 10, 2001.

DATES: The open sessions of the Committee meeting will be held on April 9, 2001, from 9:30 a.m. to 12 p.m., and on April 10, 2001, from 11:30 a.m. to 5 p.m. Closed sessions will be held on April 9, 2001, from 1:15 p.m. to approximately 6 p.m., and on April 10, 2001, from 9 a.m. to 11:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Kim Blankenbeker or Rachel Husted at (301) 713–2276.

SUPPLEMENTARY INFORMATION: The Advisory Committee to the U.S. Section to ICCAT will meet in open session to discuss: (1) 2000 ICCAT meeting results and U.S. implementation of ICCAT decisions, (2) NMFS and ICCAT research and monitoring activities, (3) recent work of the Food and Agriculture Organization, (4) Advisory Committee operational issues, (5) consultation regarding the identification of countries that are diminishing the effectiveness of ICCAT, (6) the results of the meetings of the Committee's Species Working Groups, and (7) other matters relating to the international management of ICCAT species. The public will have access to the open sessions of the meeting, but there will be no opportunity for public comment.

The Advisory Committee will go into executive session during the afternoon of April 9 and the morning of April 10 to discuss sensitive information, including upcoming intersessional meetings of ICCAT. These sessions are not open to the public. Sessions of the Advisory Committee's Species Working Groups will not be open to the public, but the results of the working group discussions will be reported in open session on April 10.

Special Accommodations

The meeting locations are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Rachel Husted at (301) 713–2276 at least 5 days prior to the meeting date.

Dated: March 9, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–6353 Filed 3–13–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 022301D]

Marine Mammals; File No. 116-1591

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Sea World, Inc., 7007 Sea World Drive, Orlando, FL 32821, has been issued a permit to import one killer whale (*Orcinus orca*) for purposes of public display.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802, (562/980–4000);

FOR FURTHER INFORMATION CONTACT: Amy Sloan, (301/713–2289).

SUPPLEMENTARY INFORMATION: On December 5, 2000, notice was published in the **Federal Register** (65 FR 75924) that a request for a public display permit to import one adult female killer whale (*Orcinus orca*) had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: March 8, 2001.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–6349 Filed 3–13–01; 8:45 am]

BILLING CODE 3510–22–S

CONGRESSIONAL BUDGET OFFICE

Notice of Transmittal of Sequestration Preview Report for Fiscal Year 2002 to the Congress and the Office of Management and Budget

Pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(b)), the Congressional Budget Office hereby reports that it has submitted its Sequestration Preview Report for Fiscal Year 2002 to the House of Representatives, the Senate, and the Office of Management and Budget.

William J. Gainer,

Associate Director, Management, Congressional Budget Office.

[FR Doc. 01–6347 Filed 3–13–01; 8:45 am]

BILLING CODE 01–0702–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1121–000]

SF Phosphates Limited Company, LLC; Notice of Issuance of Order

March 8, 2001.

SE Phosphates Limited Company, LLC (SF) submitted for filing a rate schedule under which SF will engage in wholesale electric power and energy transactions at market-based rates. SF also requested waiver of various Commission regulations. In particular, SF requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by SF.

On March 7, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates,

granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by SF should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, SF is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of SF's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 6, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 01–6279 Filed 3–13–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–76–000, et al.]

Duke Energy Audrain, LLC, et al.; Electric Rate and Corporate Regulation Filings

March 7, 2001.

Take notice that the following filings have been made with the Commission:

1. Duke Energy Audrain, LLC and NRG Energy, Inc.

[Docket No. EC01–76–000]

Take notice that on March 1, 2001, Duke Energy Audrain, LLC (Duke Audrain) and NRG Energy, Inc. (NRG) (the Applicants) filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act for authorization of the transfer of Duke Energy North America, LLC's (Duke Energy North America) 100 percent membership interests in Duke Audrain to NRG (the Transaction). NRG will pay cash for the membership interests. Duke Audrain is developing an approximately 640 MW natural gas-fired, electric generating facility located in Audrain County, Missouri (the Facility). Duke Audrain will operate the facility. The Transaction may constitute the indirect disposition of jurisdictional facilities associated with the Facility (*e.g.*, market-based rate schedules of Duke Audrain and the sales agreements entered into thereunder, limited transmission interconnection facilities and jurisdictional books and records). Applicants request confidential treatment for the documents contained in Exhibit I.

Comment date: April 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. FirstEnergy Generation Corp.

[Docket No. EG01–95–000]

Take notice that on February 26, 2001, FirstEnergy Generation Corp. filed an amendment to its December 29, 2000 application for EWG status in the above-referenced docket.

Comment date: March 28, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Caledonia Power, LLC

[Docket No. EL01–44–000]

Take notice that on March 2, 2001, Caledonia Power, LLC (Caledonia) filed a request for waiver of requirements under Order Nos. 888 and 889, with respect to certain interconnection facilities associated with Caledonia's generating facility to be located near Caledonia, Mississippi.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Consolidated Edison Company of New York, Inc.

[Docket Nos. EL01–45–000 and ER01–1385–000]

Take notice that on March 1, 2001, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Request To Revise Localized Market Power Mitigation Measures.

Con Edison requests an effective date of May 1, 2001.

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. New York Independent System Operator, Inc.

[Docket Nos. ER97–1523–061, OA97–470–056, and ER97–4234–054]

Take notice that on March 2, 2001, the New York Independent System Operator, Inc. (NYISO) filed a report on its first year of operations, as ordered by the Commission in a January 27, 1999 Order in the above-captioned dockets, Central Hudson Gas & Electric Corp. et al., 86 FERC ¶ 61,062 (1999).

The NYISO has served a copy of this filing upon all parties in the above-captioned dockets, as well as the New York Public Service Commission.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. New England Power Company

[Docket No. ER01–465–001]

Take notice that on March 2, 2001, in compliance with the Commission's letter order dated January 5, 2001 and Order No. 614, New England Power Company (NEP), as successor to Montaup Electric Company, submitted for filing complete revised:

(1) Service Agreement No. 10 (Newport Electric Corporation) under Montaup Electric Company, FERC Electric Tariff, First Revised Volume No. 1; and

(2) Service Agreement No. 11 (Blackstone Valley Electric Company) under Montaup Electric Company, FERC Electric Tariff, First Revised Volume No. 1.

NEP states that a copy of this filing has been served upon the service list for Docket No. ER99–1813–000, including the Rhode Island Public Utilities Commission and the Rhode Island Division of Public Utilities and Carriers.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. California Independent System Operator Corporation

[Docket No. ER01–889–003]

Take notice that on March 1, 2001, the California Independent System Operator

Corporation (ISO) tendered for filing changes to the ISO Tariff to comply with the Commission's order in California Independent System Operator Corporation, 94 FERC ¶ 61,132 (2001). These changes include a revision to Section 2.2.3.2 of the ISO Tariff to limit the temporary waiver of the scheduling limitation under Section 2.2.7.3 of the ISO Tariff. The ISO states that Section 2.2.3.2 is also revised to eliminate the March 3, 2001, expiration of the waiver and to eliminate the requirement for daily notice. To the extent that the Commission does not believe these matters are appropriate for the compliance filing, the ISO requests that the Commission deem these provisions a filing pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d.

The ISO states that this filing has been served upon all parties in this proceeding.

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Entergy Services, Inc.

[Docket No. ER01–982–001]

Take notice that on March 2, 2001, Entergy Services, Inc. (Entergy), on behalf of Entergy Gulf States, Inc., and Entergy Arkansas, Inc., submitted for filing an amendment to its January 17, 2001 filing in Docket No. ER01–982–000, which consisted of Entergy's filing of Generator Imbalance Agreements between Entergy Gulf States, Inc., and Entergy Services, and between Entergy Arkansas, Inc., and Entergy Power, Inc. Entergy states that the amendment to the January 17 filing serves to accurately conform that filing with the Commission's Order No. 614, Designation of Electric Rate Schedule Sheets, 90 FERC ¶ 61,352 (2000).

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Cinergy Capital & Trading, Inc.

[Docket No. ER01–1337–001]

Take notice that on March 1, 2001, Cinergy Capital & Trading, Inc. tendered for filing an amendment to its Application to Amend Market-Based Rate Schedule and Notice of Change in Status filed on February 27, 2001.

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER01–1370–000]

Take notice that on March 2, 2001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy) submitted for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and Heartland Energy Services, Inc. (now Cargill-Alliant, LLC), FERC Electric Tariff, Original Volume No. 1, Service Agreement No.17.

GPU Energy requests that cancellation be effective the 1st day of May 2001.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. PJM Interconnection, L.L.C.

[Docket No. ER01–1372–000]

Take notice that on March 2, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing amendments to Articles 8 and 17 of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (Operating Agreement) modifying the Operating Agreement to allow state offices of consumer advocates that so elect, to have full voting rights in the PJM Members Committee.

Copies of this filing were served upon all PJM members, each state electric utility regulatory commission and each State Consumer Advocate in the PJM control area.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. PJM Interconnection, L.L.C.

[Docket No. ER01–1373–000]

Take notice that on March 2, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing an amendment to section 7.5.1 of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (Operating Agreement). The proposed amendment modifies the Operating Agreement to increase the number of PJM Members Committee representatives on the PJM Finance Committee from two to three.

Copies of this filing were served upon all PJM members and each state electric utility regulatory commission in the PJM control area.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Idaho Power Company

[Docket No. ER01–1374–000]

Take notice that on March 2, 2001, Idaho Power Company (IPC) tendered for filing with the Federal Energy Regulatory Commission a Service Agreement for Firm and Non-Firm Point-to-Point Transmission Service between Idaho Power Company and Eugene Water & Electric Board.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. PSI Energy, Inc.

[Docket No. ER01–1375–000]

Take notice that on March 2, 2001, PSI Energy, Inc. tendered for filing its Power Coordination Agreement with Indiana Municipal Power Agency redesignated according to Order No. 614. This filing is being made in conjunction with the filing of revised pages to this agreement as part of a settlement in Docket No. ER00–188.

This filing has been served on the Indiana Municipal Power Agency.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Tampa Electric Company

[Docket No. ER01–1377–000]

Take notice that on March 2, 2001, Tampa Electric Company (Tampa Electric) tendered for filing a service agreement with the City of Lake Worth, Florida (Lake Worth) under Tampa Electric's market-based sales tariff.

Tampa Electric proposes that the service agreement be made effective on February 7, 2001.

Copies of the filing have been served on Lake Worth and the Florida Public Service Commission.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Tampa Electric Company

[Docket No. ER01–1378–000]

Take notice that on March 2, 2001, Tampa Electric Company (Tampa Electric) tendered for filing service agreements with Carolina Power & Light Company (CP&L) for firm point-to-point transmission service and non-firm point-to-point transmission service under Tampa Electric's open access transmission tariff.

Tampa Electric proposes an effective date of March 2, 2001, for the tendered service agreements..

Copies of the filing have been served on CP&L and the Florida Public Service Commission.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. The Detroit Edison Company

[Docket No. ER01–1379–000]

Take notice that on March 2, 2001, The Detroit Edison Company (Detroit Edison) tendered for filing a Service Agreement for wholesale power sales transactions (the Service Agreements) under Detroit Edison's Wholesale Power

Sales Tariff (WPS–2), FERC Electric Tariff No. 3 (the WPS–2 Tariff) between Detroit Edison and Powerex Corp.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. ISO New England Inc.

[Docket No. ER01–1382–000]

Take notice that on March 2, 2001, ISO New England Inc. (ISO) made a filing under Section 205 of the Federal Power Act of its Capital Funding Tariff. The ISO requests that a Capital Funding Tariff be allowed to go into effect upon issuance of a final Commission order.

Copies of the transmittal letter were served upon all Participants in the New England Power Pool (NEPOOL), as well as on the governors and utility regulatory agencies of the six New England States, and NECPUC. Participants were also served with the entire filing electronically. The entire filing is posted on the ISO's website (www.iso-ne.com).

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Caledonia Generating, LLC

[Docket No. ER01–1383–000]

Take notice that on March 2, 2001, Caledonia Generating, LLC (Caledonia), an electric power developer organized under the laws of Delaware, petitioned the Commission for acceptance of its market-based rate tariff, waiver of certain requirements under Subparts B and C of Part 35 of the Commission's regulations, and preapproval of transactions under Part 34 of the regulations. Caledonia is developing an 813 MW (summer rated) gas fired generating facility in Caledonia, Mississippi.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Entergy Services, Inc.

[Docket No. ER01–1384–000]

Take notice that on March 2, 2001, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc., tendered for filing a modified and redesignated Interconnection and Operating Agreement with SRW Cogeneration, L.P. (SRW Cogen), and a Generator Imbalance Agreement with SRW Cogen.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER01–1386–000]

Take notice that on March 2, 2001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy) submitted for filing a Notice of Cancellation of the Service Agreement between GPU Service, Inc. and Illinova Power Marketing, Inc. (now Dynegy Power Marketing, Inc.), FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 62.

GPU Energy requests that cancellation be effective the 1st day of May 2001.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER01–1387–000]

Take notice that on March 2, 2001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy) submitted for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and Consolidated Edison Company of New York, Inc., FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 4.

GPU Energy requests that cancellation be effective the 1st day of May 2001.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER01–1388–000]

Take notice that on March 2, 2001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy) submitted for filing a Notice of Cancellation of the Service Agreement between GPU Energy and Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (collectively, Allegheny Power), FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 81.

GPU Energy requests that cancellation be effective the 1st day of May 2001.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Public Service Company of New Mexico

[Docket No. ER01–1389–000]

Take notice that on March 2, 2001, Public Service Company of New Mexico (PNM) filed a Notice of Cancellation with the Federal Energy Regulatory Commission with respect to PNM Rate Schedule FERC No. 73. By its terms, the Transmission Service Agreement Between Public Service Company of New Mexico and Salt River Project Agricultural Improvement and Power District, on file as PNM Rate Schedule FERC No. 73, is to terminate on April 30, 2001.

Consistent with the agreement, PNM requests that cancellation of the related rate schedule become effective on April 30, 2001.

A copy of the filing has been served upon Salt River Project Agricultural Improvement and Power District, San Diego Gas & Electric Company and an informational copy was provided to the New Mexico Public Regulation Commission. The Notice of Cancellation has been posted and is available for public inspection during normal business hours at PNM's offices in Albuquerque, New Mexico.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. Public Service Company of New Mexico

[Docket No. ER01–1390–000]

Take notice that on March 2, 2001, Public Service Company of New Mexico (PNM) submitted for filing two executed service agreements for Long-Term Firm Point-to-Point Transmission Service with Salt River Project Agricultural Improvement and Power District, Inc. (SRP) under the terms of PNM's Open Access Transmission Tariff. The Agreements, dated January 30, 2001, provide service of 119 MW of reserved capacity from the Palo Verde 500 kV Switchyard (Point of Receipt) to the Westwing 500 kV Switching Station (Point of Delivery) for two consecutive years (through December 31, 2002), beginning on February 1, 2001. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to SRP and to the New Mexico Public Regulation Commission.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. Madison Gas and Electric Company

[Docket No. ER01–1391–000]

Take notice that on March 2, 2001, Madison Gas and Electric Company (MGE) tendered for filing with the Commission a Notice of Cancellation of MGE's Rate Schedule FERC No. 14. MGE seeks to cancel Rate Schedule FERC No. 14 in its entirety, including all supplements. This would cancel MGE's Interchange Agreement with Wisconsin Electric Power Company, effective January 1, 2001, and is occasioned by the recent formation and commencement of operations of the American Transmission Company LLC.

Copies of this filing have been served on Wisconsin Electric Power Company, the American Transmission Company LLC and the Public Service Commission of Wisconsin.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. Portland General Electric Company

[Docket No. ER01–1392–000]

Take notice that on March 2, 2001 , Portland General Electric Company (PGE) tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff First Revised Volume No. 8, Docket No. OA96–137–000), a letter of agreement for Energy Imbalance Service with Bonneville Power Administration.

A copy of this filing was caused to be served upon Bonneville Power Administration, as noted in the filing letter.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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).

David P. Boergers,

Secretary.

[FR Doc. 01–6278 Filed 3–13–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11855–000]

JLH Hydro, Inc.; Notice of Public Scoping For The Environmental Assessment Evaluating Issuance of an Original Minor License For The Idols Hydroelectric Project

March 8, 2001.

Pursuant to the National Environmental Policy Act and procedures of the Federal Energy Regulatory Commission, the Commission staff intends to prepare an Environmental Assessment (EA) that evaluates the environmental impacts of issuing an original minor license for the Idols Hydroelectric Project, No. 11855–000 to be located on the Yadkin River near the town of Clemmons in Davie and Forsyth counties, North Carolina. The project would not utilize federal lands.

The proposed project would consist of the following existing facilities: (1) A 10-foot-high, 660-foot-long, rubble masonry dam having an ungated 410-foot-long spillway; (2) a 1-mile-long, reservoir with a surface area of 35 acres, and no appreciable storage at normal pool elevation, 672.3 feet mean seal level; (3) a 900-foot-long, 100 to 150-foot-wide tailrace, separated from the main river channel by a 200-foot-long, concrete retaining wall and a mid-channel island; and (4) a 60-foot-long by 39-foot-wide brick utility building, which would contain the project's transformers.

The site's 146-foot-long by 36-foot-wide powerhouse, located at the northeast end of the dam, was a stone masonry and wood structure, which contained 6 vertical Francis-type turbines directly connected to 6 generators having a total installed capacity of 1,411 kilowatts. On February 8, 1998, a major fire destroyed the powerhouse's generators and electrical equipment as well as its wooden roof, walls, and floor.

The applicant proposes: (1) To use the project's existing dam, water intake structures, wicket gates, and turbines; (2) to reconstruct the powerhouse with a steel roof and red concrete block walls; (3) to install 6 generators having a combined capacity of 1,440 kilowatts in the restored powerhouse structure; (4) to install 3 dry-type transformers in the utility building; (5) to improve the existing canoe take-out, portage trail, and put-in area around the dam's west side; and (6) to operate the project in a run-of-river mode to produce an average of 5,866,000 kilowatt-hours of electricity per year.

The EA will consider both site-specific and cumulative environmental effects, if any, of the proposed action and reasonable alternatives, and will include an economic, financial, and engineering analysis. Preparation of staff's EA will be supported by a scoping process to ensure identification and analysis of all pertinent issues.

At this time, the Commission staff does anticipate holding any public or agency scoping meetings nor conducting a site visit. Rather, the Commission staff will issue one Scoping Document: (1) Outlining staff's preliminary evaluation of subject areas to be addressed in the EA; and (2) requesting concerned resource agencies, Native American tribes, non-governmental organizations, and individuals to provide staff with information on project area environmental resource issues that need to be evaluated in the EA.

The aforementioned scoping document will be provided to all entities and persons listed on the Commission's mailing list for the subject project. Those not on the mailing list for the Idols Hydroelectric Project may request a copy of the scoping document from Jim Haimes, the project's Environmental Coordinator, at (202) 219–2780 or by contacting him by E-mail at *james.haimes@ferc.fed.us*.

David P. Boergers,

Secretary.

[FR Doc. 01–6280 Filed 3–13–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM00–12–000]

Electronic Filing of Documents; Notice of Additional Qualified Documents for Electronic Filing

March 8, 2001.

Take notice that beginning March 12, 2001, the Commission will accept Motions to Intervene and Comments on Proposed Rulemakings for filing via the Internet in lieu of paper copies.

Order No. 619,[1] authorized the Secretary of the Commission to issue and amend a list of qualified documents that, at the filer's option, may be submitted via the Internet without also filing paper copies.[2] The Commission defined the initial set of qualified documents and issued electronic filing instructions in a notice issued October 6, 2000.[3] That notice identified the initial set of qualified documents, including:

1. Comments on applications and other filings
2. Comments on technical conferences
3. Comments filed in connection with environmental documents (Notices, Environmental Assessments, and Environmental Impact Statements)[4]
4. Protests[5] and responses to certain protests.[6]
5. Reply comments.

Beginning March 12, 2001, the following additional filings may, at the filer's option, be submitted via the Internet in lieu of paper copies:

1. Comments in response to Notices of Proposed Rulemakings[7]
2. Motion/Notice of Intervention[8]
3. Motion/Notice of Intervention Out-of-Time[9]
4. Withdrawal of Intervention[10]
5. Reply Comments and Responses to Motions to Intervene

The Commission also confirms that responses to Notices of Inquiry are qualified documents for filing via the Internet.

The Commission is not yet accepting comments on settlements, comments on litigated cases, or complaints over the Internet. Those documents must be filed in the traditional manner with the required number of paper copies.

Qualified documents may be combined and submitted in the same document (electronic file). For example, a motion to intervene may also include comments and/or a protest in the same document and be eligible for filing via the Internet.

Non-qualified documents may not be included in an electronic submission with other qualified documents. For example a complaint (not a qualified document) combined with a Motion to Intervene is not eligible for electronic submission via the Internet.

We are revising and reissuing Attachments A[11] and B,[12] originally issued on October 6, 2000, to reflect the additions to the qualified documents list. These attachments contain the technical requirements and filing instructions, respectively, for electronic submission of qualified documents.

David P. Boergers,

Secretary.

Attachment A

Technical Requirements for Electronic Filing

I. Purpose

The Commission's regulations at 18 CFR Part 385.2003(c) permit participants to voluntarily file certain qualified documents in electronic format via the Internet in lieu of filing paper copies.[1]

II. Who May Submit

Anyone desiring to comment on or participate in a Commission proceeding may voluntarily submit a qualified document in electronic format via the Internet, in lieu of paper copies.

III. What To Submit

A document filed with the Commission via the Internet must be a "qualified document."

For the purpose of filing via the Internet, "qualified documents" are those categories of documents listed in instructions issued by the Secretary. More than one qualified document type may be combined in a single file. For example, a Motion to Intervene may also contain comments and/or a protest.

Documents that are not "qualified documents" cannot be filed via the Internet, even if combined with other "qualified documents". Such filings must be submitted with an original and the applicable number of paper copies. Similarly, documents requiring privileged or protected treatment by the Commission may not be filed via the Internet.

Persons filing "qualified documents" via the Internet should not file paper copies.

The list of qualified documents will be included in instructions for filing issued by the Secretary of the Commission and available on the Commission's web site (*www.ferc.fed.us*) at the link "Make An E-Filing."

IV. Technical Requirements

A. Filing Format

Participants may submit electronic documents in the following formats:

1. Microsoft Word: Versions up to MS Office 2000. The file name extension must be ".doc".
2. Corel WordPerfect: Versions up to 9.0. The file name extension must be ".wpd".
3. Portable Document Format (PDF); all versions. The file name extension must be ".pdf".
4. Rich Text Format. The file name extension must be ".rtf".
5. ASCII. The file name extension must be ".txt".

We do not currently accept spreadsheet or presentation software formats.

Participants may submit files with long file names not exceeding 25 characters. Do not include blank spaces or ampersands in the name. Use a period to delimit the file name and the extension. The underscore character is acceptable if you need to delimit a file name. You will receive an error message if the file name contains spaces, or does not have the correct extension.

C. Method of Submission

The system for electronic filing of interventions, comments, and protests is a file attachment process. You must first prepare your submission in one of the acceptable file formats. We do not at this time provide a text box for submitting brief comments.

The following steps outline the procedure for filing a qualified document with the Commission via the Internet. Instructions for e-filing are on the Commission's web site (*www.ferc.fed.us*) under the link "Make An E-Filing".

1. Access the Commission's web site and click on "Make An E-Filing".
2. Enter your User Name and Password or click on "New User Account".
3. After login, select the type of filing, specify the signer of the document and the organization on whose behalf the filing is made; specify the Docket Number(s) for the submission. Accept or amend the default description of the filing and select the appropriate file to submit.
4. Upon successful transmission of the file, the Commission's computer system will immediately generate a web-based response confirming receipt. The Commission's computer system will shortly thereafter send an e-mail message confirming receipt (first e-mail).
5. The Commission's computer system will convert native file formats to Portable Document Format (PDF) and send a second e-mail to the filer with a link to the PDF file.
6. The Commission's Docket Staff will review the filing and, if accepted for filing, the filer will receive a third e-mail with a "Notice of Acceptance" and a link to GIF image files created from the PDF file.
7. If the filing is not accepted, the Dockets Staff will send a "Notice of Rejection", with the reason for the rejection, to the filer's e-mail address.
8. The Commission will make available on its web site, through its Records and Information Management System (RIMS), electronic versions of the accepted document in native (as filed), PDF, and GIF image formats. Interested persons can download any or all versions of the file or view it on screen if they have the appropriate viewer.

[1] III FERC Stats. & Regs., Regulations Preambles ¶ 31,107.

[2] 18 CFR 385.2003(c)(2), 65 FR 57088.

[3] "Notice of Qualified Documents for Electronic Filing", Docket No. RM00–12–000, issued October 6, 2000.

[4] 18 CFR 380.10(a).

[5] 18 CFR 385.211 and 18 CFR 343.3 (see also 18 CFR 4.5, 4.13, 4.23, 35.8(a), 154,210(a), 157.10, and 157.205(e)).

[6] 18 CFR 343.3(b).

[7] 18 CFR 385.1903 and 18 CFR 380.10(b).

[8] 18 CFR 385.214, 385.1306 (See also 18 CFR 35.8(a), 154.210(a) and (b), 157.210, 157.106, 343.2(a), and 380.10).

[9] 18 CFR 385.214(b)(3).

[10] 18 CFR 385.216.

[11] "Technical Requirements for Electronic Filing", originally issued as Attachment A to "Notice of Qualified Documents for Electronic Filing", Docket No. RM00–12–000, October 6, 2000.

[12] "FERC Electronic Filing of Interventions, Comments, and Protests: User Guide (version 2.1)", March 12, 2001.

[1] 18 CFR 385.2003(c), 65 FR 57088 (Sept. 21, 2000).

D. Authentication and Verification

Participants must establish a User Name and Password prior to their first submission. The User Name and Password validate the identity of the person submitting the electronic filing.

The typed name of the person responsible for the filing must be included in the text of the electronic submission where the filing would normally be "signed." The string of characters representing the name of the person responsible for the filing satisfies the "signature" requirement of 18 CFR 385.2005 (*e.g.*, \S\ John Doe).

E. Filing Date

The same rules that establish the filing date for paper filings also apply to electronic filings. Electronic filings received after 5:00 p.m. Eastern time will be considered received as of 8:30 a.m. on the next business day.

F. Document Content Standards

There are some limitations on the content of documents submitted to the Commission via the Internet. Documents must satisfy the following criteria:

1. Documents must be submitted as a single file, which is neither zipped nor compressed. The file size limit is five megabytes. Only documents in approved filing formats with the proper file name extension will be accepted. Cover letters and/or certificates of service, if applicable, should be included in the same file as the rest of your submission.

2. Documents filed via the Internet must generally conform to the same document formatting specifications that apply to paper submissions. They should have double-spaced lines, left margins not less than 1½ inch, indented and single-spaced quotations that exceed 50 words; and not less than 10-point fonts (See 18 CFR 385.2003).

3. The document must include the Docket Number of the proceeding in which you are filing. Qualified documents may be filed in one or more dockets. Use the Commission Issuance Posting System (CIPS) or the Records and Information Management System (RIMS) to determine the correct docket number and format. Both systems are accessible from the Commission's web site (*www.ferc.fed.us*).

4. The document must contain the name and address of the person responsible for the filing.

5. Documents must not contain auto-text functions (such as "today's date") or macros that change the content of the document after submission.

6. Documents must not contain hyperlinks to external documents.

7. All documents submitted electronically will be public. Non-public or proprietary documents may not be submitted electronically.

8. Paragraph numbers are not required; however, if you are filing in a format other than PDF, we encourage you to use paragraph numbers.

F. Additional Contacts

For assistance or to discuss problems with making electronic filings, contact the Helpline at 202–208–0258 during the Commission's business hours (8:30 a.m. to 5:00 p.m. Eastern time) or e-mail *efiling@ferc.fed.us*.

To obtain general information about the program and accessing the documents filed electronically (viewing, printing, and downloading), contact the public Helplines during business hours at:

202–208–1371 (and press "0") or e-mail *public.referenceroom@ferc.fed.us*
202–208–2222 or e-mail *rimsmaster@ferc.fed.us*.

Note: The Commission does not accept filings via e-mail. Do not use any of the above e-mail addresses to submit comments or other filings to the Commission. Materials submitted via e-mail will not be placed in the record for a proceeding.

V. Paperwork Reduction Act

No person shall be subject to any penalty for failing to comply with this collection of information if the collection of information does not display a valid control number.[2]

Federal Energy Regulatory Commission

Electronic Filing of Interventions, Comments, and Protests, v2.1

User Guide

March 12, 2001.

Table of Contents

I. Introduction

Pursuant to Order No. 619,[1] the Federal Energy Regulatory Commission (FERC) now accepts the following "qualified documents" via the Internet in lieu of paper filing.

Comments on Filings
1. Comments on applications and other filings
2. Comments on technical conferences
3. Comments filed in connection with environmental documents (Notices, Environmental Assessments, and Environmental Impact Statements)[2]
4. Protests[3] and responses to certain protests.[4]
5. Comments on Notices of Inquiry (PL Dockets)
6. Reply comments.

Comments on Notices of Proposed Rulemakings (RM Dockets)[5]

Interventions
1. Motion/Notice of Intervention[6]
2. Motion/Notice of Intervention Out-of-Time[7]
3. Withdrawal of Intervention[8]
4. Responses to Motions To Intervene

The Electronic Filing System is a file attachment process; we do not yet have a text box for filing brief comments. So you should prepare your submission in the same manner as you would if filing on paper. Your filing must include the docket number(s) applicable to your submission as well as the name and address of the person responsible for the filing.

Two or more qualified documents may be combined in a single document (*e.g.*, a motion to intervene may also include comments and a protest) and submitted using FERC's electronic filing system. But "non-qualified documents" (*e.g.*, a complaint), may not be electronically submitted at this time, even if they also contain qualified documents.

II. E-Filing Procedures

The same filing deadlines that apply to paper submissions also apply to electronic submissions. Your electronic submission must be received by 5:00 p.m. Eastern time in order to be considered filed on that day. Otherwise, it will be considered filed at 8:30 a.m. on the next business day.

A. Before You Login To File

1. Electronic filing is limited to certain "qualified documents" identified in Notices issued by the Office of the Secretary in Docket No. RM00–12–000. The types of documents eligible for electronic filing are summarized in the Introduction to this Guide. Be sure that your submission contains only qualified documents.

2. Prepare your submission in one of the following file formats:

MS Word (.doc)
WordPerfect (.wpd)
Portable Document Format (.pdf)
Rich Text Format (.rtf) or
ASCII Text format (.txt)

3. Save the file to a diskette or other drive that you can access when you make your submission. Long file names can be used, provided they do not exceed 25 characters and do not contain spaces or ampersands. Use the appropriate file name extension.

4. Submissions currently are limited to a single file. So you should combine a cover

[2] 44 U.S.C. 3512.

[1] III FERC Stats. & Regs., Regulations Preambles ¶ 31,107.

[2] 18 CFR 380.10(a) (2000).

[3] 18 CFR 385.211 and 18 CFR 343.3 (see also 18 CFR 4.5, 4.13, 4.23, 35.8(a), 154,210(a). 157.10, and 157.205(e)) (2000).

[4] 18 CFR 343.3(b) (2000).

[5] 18 CFR 385.1903 and 18 CFR 380.10(b) (2000).

[6] 18 CFR 385.214, 385.1306 (See also 18 CFR 35.8(a), 154.210(a) and (b), 157.210, 157.106, 343.2(a), and 380.10) (2000).

[7] 18 CFR 385.214(b)(3) (2000).

[8] 18 CFR 385.216 (2000).

letter, and certificate of service, if applicable, in one file with your submission.

5. Check to ensure your browser's Cookie settings are correct. The Commission uses a session cookie to enable you to make your filings electronically. Refer to Attachment B for more information on the use of cookies to access Commission systems. To check your cookie settings to enable electronic filing:

Microsoft Internet Explorer: in the Menu Bar, click on Tools, Internet Options, the Security tab, and then select Custom Level. Scroll down to the Cookies section, and make sure the "Enable" radio button is clicked for both user and session statements. Click OK until you return to your original screen.

Netscape: in the Menu Bar, click on Edit, Preferences, and then on Advanced in the left column. In the right column, in the Cookies section, make sure the "Accept all cookies" radio button is clicked. Click OK until you return to your original screen.

B. Access FERC's E-Filing System

From your chosen browser, go to *www.ferc.fed.us*

1. On the FERC Home Page, click on "Make an E-Filing."

2. Review any messages on the Welcome screen for e-filing.

3. Click on LOGIN TO FILE to begin the file submission process.

C. Login to Make a Filing

You must have a User Name and password to use this system.

1. If you have a User Name and Password, enter your User Name and Password, then click on the Login icon below the password box (Skip to Part D below).

2. If you do not have a User Name, you must create one.

a. On the Login screen, select New User Account.

b. At the Contact Information Screen, fill in the First Name, Middle Initial (optional), and Last Name. You must complete all fields with labels in Bold text.

In the Company field, enter the company, association, or organization that you are employed by or associated with, provided that you wish to be affiliated with that organization in the filing you are submitting to FERC. Leave the Company field blank if you are submitting a filing as an individual and not as an employee of your company or a member of any association or organization.

Click on Submit.

c. Specify a User Name & Password. Caution: The user name and password are case sensitive.

d. Type the same password again. Click on Login. Retain your User Name and password for future use.

D. Select the Type of Filing You Are Making

From the Filing Type Selection Screen, click on the radio button that identifies the type of filing you are making. Electronic filing is limited to certain "qualified documents" identified in notices issued by the Office of the Secretary in Docket No. RM00–12–000. The list of qualified documents is summarized in the Introduction to this Guide.

Your submission must include one or more "qualified documents" in a single file (e.g., comments and/or a protest may be filed in conjunction with a motion to intervene if you intend to become a party to a proceeding).

The blue information icons briefly describe each filing type. You may select only one type.

If you're filing a Motion to Intervene, then you should click on that selection, even though your submission may also contain a protest or comments. Refer to the attachment to this Guide for additional information on interventions. Intervenors incur a legal obligation to serve copies of filings on other parties in a proceeding.

E. Specify the Signer of the Document

You must specify the signer of the document you are submitting, and the signer's organization. At the present time, you can enter only one signer name. For a Motion to Intervene, the name you specify will also be added to the service list for the docket you are filing under.

The Search screen for Specify the Document Signer defaults to the person and the organization associated with the user's login account (organization will display "Individual" if you did not specify an organization when you set up your user account).

1. If the default entries for Signer and Signer's Organization are correct, click on Next (Skip to Part F below).

2. If the default entries are not the desired names for the signer and/or the signer's organization, you must search FERC's list of filers for the correct entries.

a. Edit the first and last name of the signer and/or the signer's organization. You do not need to change entries that are correct. If you want to change the signer's organization, enter a character string that the organization name either "starts with" or "contains", and click on the appropriate radio button ("starts with" is the default). Note for Netscape users: the search query returns results for "contains" only.

Use Clear to erase all default entries; use Reset to restore the default entries.

Click on Next when you finish editing the entries.

b. On the Search Results screen for Specify the Signer of the Document, use the down arrows to select the signer name and/or the organization name from the pick list. When you have made the selections, Click on Next.

(1) If the Signer Name has been changed and the new name and associated address are not found or are incorrect, click on Create a New Contact.

Enter the information for the signer, including the signer's organization, if applicable (Leave blank if you are signing as an Individual). You must complete all fields with Bold labels.

Click on Submit. You will see the signer name (but not the address) and the organization (or "Individual" if you left organization blank). Click on Next to submit the new entries. Skip to Section F below.

(2) If the Signer Organization is not found or is incorrect, fill in a new Organization name in the space provided. Click on Submit.

Note: The signer's organization may be different from the organization on whose behalf the filing is made, e.g., an attorney at a law firm (signer's organization) filing on behalf of a client.

F. Specify the Organization on Whose Behalf You Are Filing

You must specify the organization or group on whose behalf you are filing, if you are making the filing on behalf of anyone other than yourself (as an individual). You can enter only one organization or group name. The FERC Dockets staff will manually add the names of any additional parties to a filing when they review your submission.

At your option, you may specify a contact person associated with or representing the organization or group on whose behalf you are filing. For a Motion to Intervene, the name you specify will be placed on the service list for the docket you are filing under.

The Search screen for the Specify the Organization on Whose Behalf You Are Filing defaults to the organization associated with your User Name account. If you changed that organization in Section E above, then the screen defaults to the revised organization.

1. If you're submitting the filing as an Individual, and "Individual" appears in the Organization Name field, click on Next to continue (Skip to Part G below).

2. If the default entry for the organization name is correct, but you wish to add a contact person for that organization, add the first and last name of the contact person and click on Next (Skip to #4 in this section).

3. If the default entry for the organization name is not correct, enter a character string that the desired organization name either "starts with" or "contains", and click on the appropriate radio button ("starts with" is the default). Note for Netscape users: the search query returns results for "contains" only.

4. You may, at your option, enter the first and last name of a contact at the organization on whose behalf you are filing. Click on Next when you finish adding or editing the entries. This will initiate a search of the FERC list of filers for names that match the name you entered.

5. On the search results screen, use the down arrows to select the proper entry(ies) from the search results. Click on Next after you select the desired entries.

6. If you do not find the correct entry(ies), follow the procedures in Section E, part 2(b)(1) and 2(b)(2) to Create a New Contact or enter a new organization.

G. Specify the Docket Number(s) Applicable to Your Filing

You must specify at least one docket number for your filing. Comments are generally filed in response to notices issued by the Commission. The notices identify the Docket Number and set the deadline for filing comments or motions to intervene.

If you do not know the applicable Docket Number, or the correct format for the number, you should query either the Commission Issuance Posting System (CIPS) at *http://cips.ferc.fed.us/cips/default.htm*) or the Records Information Management System (RIMS) at *http://www.ferc.fed.us/online/rims.htm* on the Commission's web site.

On the Enter Docket Number screen, enter the correct docket and sub-docket number. Most docket numbers have the format ppyy-ddd-sss, where pp is the docket prefix, yy is the last two characters of the fiscal year, ddd is a one to five-digit sequential case number (project number for the "P" prefix), and sss is the sub-docket number. The system will not accept an incomplete entry or one that is not in the proper format.

1. If you're filing in a single docket, click on Continue after you enter the docket number. Note for Netscape users: You must click on Add to Docket List and then click on Continue

2. If you're filing in more than one docket, click on Add to Docket List after each entry to build a complete Docket Number List for your submission. Click on Continue after you've entered all of the applicable docket numbers.

H. Enter a Description of Filing and Select the File to Submit

The title of the next screen will display the type of filling that you selected in Part D. The default description is based on the Filing Type Selection, the organization that you specified as the Organization on Whose Behalf You Are Filing, and the Docket Number(s) that you entered.

You may amend the description to more accurately describe the content of your submission. For example, if you're filing a protest and/or comments in conjunction with a Motion to Intervene, change "Motion/ Notice of Intervention * * *" to "Motion to Intervene with Comments and Protest * * *." There is a limit of 255 characters. Do not use this field for your actual comments; it is a description field only.

After accepting or amending the default description, click on the Browser icon to select the file you intend to submit.

1. From the Choose File box, use the down arrow to select the drive where the file is located.

2. Continue selecting the directory and subdirectory until you locate the file name.

3. Highlight the desired file name and click on Open (alternatively, you can double-click on the file name). The path and file name will appear in the Add File box.

4. Click on Post File to submit your filing to FERC.

III. Receipt and Acknowledgment

Upon receipt of your submission, the E-filing system will automatically acknowledge that your filing has been received by FERC. The following information should appear on your computer screen within a few seconds after you submit your filing:

1. FERC Accession Number (document control number assigned to your submission)
2. File Name
3. File Size (so you can verify a complete transmission)
4. File Date (official filing date; filings received after 5:00 p.m. will be considered filed at 8:30 a.m. on the next business day. See 18 CFR 385.2001(a)(2)).
5. Filing Description
6. Docket Number(s) that you filed against
7. The Filing Type that you selected
8. Submission Date and Time (the date and time we received your submission)
9. Signer's Name
10. The "Filed By" Organization (organization/individual on whose behalf you are filing)

For a Motion to Intervene, the on-screen acknowledgment will also indicate the entries on the Commission's service list for the applicable docket(s). Print the acknowledgment.

Whether you print the on-screen acknowledgment or not, we send the same information via automatic e-mail response to the e-mail address specified in the user's login account. You should receive this e-mail within a minute of receipt.

We'll automatically convert your file to Portable Document Format (PDF) and send a second e-mail with a hyperlink to the PDF version. You should receive this e-mail within minutes of receipt.

The FERC Dockets staff will review each submission to ensure that it is in the correct format and is filed in the correct docket. Once they accept your submission, you will receive a third e-mail notifying you of the acceptance. At this time, the system adds your submission to the applicable Docket Sheet(s) and loads the native file format, the PDF file, and image files created from the PDF file in RIMS, where it is available to the public via the Commission's web site (*http://www.ferc.fed.us/online/rims.htm*). Dockets will attempt to review all electronic submissions within one hour of receipt.

If the Dockets staff cannot process your submission or there are deficiencies, you will receive an e-mail rejecting the filing. You may resubmit the filing after correcting any errors noted by the Dockets staff.

IV. User Assistance

For assistance or to discuss problems with making electronic filings, contact the Helpline at 202–208–0258 during the Commission's business hours (8:30 a.m. to 5:00 p.m. Eastern time) or *e-mail efiling@ferc.fed.us*.

To obtain general information about the program and accessing the documents filed electronically (viewing, printing, and downloading), contact the public Helplines during business hours at:

202–208–1371 (and press "0") or e-mail *public.referenceroom@ferc.fed.us*
202–208–2222 or e-mail *rimsmaster@ferc.fed.us*.

Note: The Commission does not accept filings via e-mail. Do not use any of the above e-mail addresses to submit comments or other filings to the Commission. Materials submitted via e-mail will not be placed in the record for a proceeding.

Attachment A: How to Intervene in Commission Proceedings

There are two alternatives available to those wishing to participate in FERC proceedings involving the interstate sale and transportation of natural gas, hydroelectric dams, wholesale transactions of electric transmissions, and rates for the interstate transportation of petroleum products.

One alternative is to file a protest or letter of support with the Commission. While protests and letters of support are helpful in the Commission's deliberation of a case, these filings do not constitute part of the record upon which a decision is made if the case is set for hearing before the Commission's administrative law judges.

The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved.

The second approach is to file as an intervenor. An intervenor is an official party to a proceeding and enjoys distinct advantages over those who only file comments.

Intervenors have the right to participate in hearings before FERC's administrative law judges; file briefs; file for rehearing of a Commission decision; have legal standing to be heard by the Court of Appeals if they press their opposition to the Commission's final order; be placed on a service list to receive copies of case-related Commission documents and filings by other intervenors.

Filing for intervenor status is not complicated. There is no form to complete. Interested parties must file a motion requesting permission to intervene. The motion must identify the case by name and docket number and must clearly state your position and interest in the case.

For example, intervenors may demonstrate they are directly affected consumers, or they are elected representatives of affected parties, or that they own land near a proposed hydroelectric or pipeline site.

In addition to filing with the Commission, a motion to intervene must be served on the applicant and any other parties to the proceeding. The Commission's Secretary maintains the service list. Service lists are available by docket number on the FERC web site at the following link: *http://fercdocket.ferc.fed.us/pa/pa.htm*. If you do not have Internet access, requests for service lists should be directed to the Public Reference Room, (202) 208–1371.

Parties that agree to be served by specified electronic means may be served in that manner in lieu of first class mail or other means of physical delivery.

Notices of proposed rate changes, applications for hydro development, proposed natural gas pipelines, and other filings submitted to the Commission are printed daily in the **Federal Register** (*www.access.gpo.gov/su_docs/aces/aces140.htm*).

Notices issued by the Commission are also available on the Commission Issuance Posting System (CIPS), which can be accessed through the Commission's web site at *http://cips.ferc.fed.us/cips/default.htm*.

Each notice includes a deadline for filing requests for intervention. If the request to intervene is filed on time and there is no opposition to the request within 15 days of filing, intervenor status is granted automatically.

Disputed requests for intervenor status must be resolved by the Commission.

Anyone filing a motion to intervene out-of-time must show good cause why the motion should be accepted late.

If the intervention is filed after the matter has been set for hearing and is pending before an administrative law judge, the

presiding judge has the authority to rule on contested motions to intervene.

Interventions, protests, or comments may be filed on paper or in electronic format via the Internet in lieu of paper copies. If filing on paper, you must either mail or deliver a signed original and 14 copies of the intervention, comment, and/or protest to the Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Washington, DC 20426.

If filing via the Internet, access the Commission's web site (*www.ferc.fed.us*) and select the link to "Make An E-Filing". First-time users will have to create a User Name and password. Once you login, follow the instructions on the screens to submit the file containing your intervention, comment, and or protest. You need not submit paper copies if you file via the Internet.

As noted, these filings must cite the case name and docket number.

Attachment B: Privacy Act Statement and the Use of Cookies

Privacy Act Statement

The Commission's Privacy Act Statement is available on its web site at: *http://www.ferc.fed.us/disclmer.htm.*

In the electronic filing system, you provide personal information to us in two ways.

First, you must provide your name, address, telephone number, and e-mail address in order to establish a User Name and Password to use the system. We use this information to authenticate the source of an electronic filing. When you login to the system, we display this information for you so that you can verify that the information has not changed since your last session. We also use your name and organization, if any, to pre-fill certain fields to simplify data entry. You can change the default entries if they are not correct.

The information associated with your User Name is not used for any other purpose, nor is it disclosed to others. We use Secure Sockets Layer (SSL) software to protect passwords so that no one else can access your account or make a filing using your account.

The second source of personal information is the identifying information that you must include in the document (file) that you submit to the Commission. The information in the document, including any personal identification information, is a public record and will be accessible by any member of the public via the Commission's web site. These requirements apply to both electronic and paper submissions.

All filings must be signed. For electronic filings, the Commission's rules provide that the typed characters representing the name of a person shall be sufficient to show that such person signed the document. All filings with the Commission must contain: the docket number, if any; the title of the proceeding if one has been initiated; a heading which describes the filing; and the name of the participant for whom the filing is made.

In most cases, you must also include the name, address, and telephone number of the person responsible for the filing. Motions to Intervene must include the name, address, and telephone number of the person(s) to be included on the Commission's official service list for the proceeding. The service lists are also accessible to the public via the Commission's web site.

If you need additional information on the content requirements for specific filings, refer to the Commission's Procedural Rules in 18 CFR 385.

Use of Cookies

Cookies are short text files placed on your computer's hard drive by a web site, usually without your knowledge. The cookie is not an executable program and cannot do anything to your computer. There are two kinds of cookies:

A session cookie is one that continues in operation only for the duration of the browser session—when the user shuts down the browser the cookie is released and goes away.

A persistent cookie continues in operation after the close of the individual session. Shutting down the browser will cause the cookie to be written into a special cookie file on the user's computer, so that the next time the user visits the web site that generated the cookie, the cookie will be sent to the web site's server again.

The Commission uses a session cookie to enable you to make filings electronically. We do not use persistent cookies for electronic filing.

The session cookie is used for no other purpose than to enable you to make an electronic submission. You can prevent any cookies from being sent to your system using the browser options. However, if you do so, or already have your browser set to do so, you will not be able to submit filings electronically. If you prefer not to allow session cookies on your computer, you will have to submit your filing on paper by sending an original and fourteen copies of your filing to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First St., NE., Washington, DC 20426.

[FR Doc. 01–6324 Filed 3–13–01; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2470]

Petition for Reconsideration of Action in Rulemaking Proceeding

March 6, 2001.

Petition for Reconsideration has been filed in the Commission's rulemaking proceeding listed in this public notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing and copying in Room CY–A257, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to this petition must be filed by March 29, 2001. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

Subject: Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies and Termination of the EEO Streamlining Proceeding (MM Docket No. 98–204, 96–16).

Number of Petitions Filed: 1.

Magalie Roman Salas,

Secretary.

Federal Communications Commission.

[FR Doc. 01–6316 Filed 3–13–01; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 010776–119.

Title: Asia North America Eastbound Rate Agreement.

Parties:

A.P. Moller-Maersk Sealand
American President Lines, Ltd.
APL Co. Pte Ltd.
Hapag-Lloyd Container Linie GmbH
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha Line
Orient Overseas Container Line Limited
P&O Nedlloyd B.V.
P&O Nedlloyd Limited

Synopsis: The proposed agreement modification extends the current suspension of the conference for an additional six months, through November 1, 2001.

Agreement No.: 200233–009.

Title: Packer Avenue Lease and Operating Agreement.

Parties:

Philadelphia Regional Port Authority
Astro Holdings, Inc.

Synopsis: The proposed amendment extends the agreement through August 31, 2001.

By Order of the Federal Maritime Commission.

Dated: March 9, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–6343 Filed 3–13–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

Neutral Line (U.S.A.) Inc., 8600 N.W. 53rd Terr., Suite 123, Miami, FL 33166, Officers: Jorge L. Loy, Secretary (Qualifying Individual), Carlos Amaro, President

Pudong Trans USA, Inc., 9660 Flair Drive, Suite 225, El Monte, CA 91731, Officers: Yuan Sun, Vice President (Qualifying Individual), Jiang Wang, President

Ocean Carriers Inc., 8425 N.W. 29th Street, Miami, FL 33122, Officer: Gustavo Merck, President/Secretary (Qualifying Individual)

C.F.L. International, 5682 Mt. Day Drive, Livermore, CA 94550, Guillermo Iglesias, Sole Propreitor

Fastmark Corporation, 8410 N.W. 70 Street, Miami, FL 33166, Officers: Marianela Guillen, Vice Secretary (Qualifying Individual), Juan Carlos Mezza, President

RCM International Shipping U.S.A., L.L.C., 10–C W. Access Road, Kenner, LA 70062, Officer: Rafael A. Rodriguez, President (Qualifying Individual)

Unicom Trans, Inc., 15500 S. Western Avenue, Gardena, CA 90249, Officers: Sun H. Kim, Chief Executive Officer (Qualifying Individual), Daniel S. Jun, Chief Financial Officer

Deltamax Logistic Freight Service, LLC d/b/a DLS Logistic Service, 5261–B W. Imperial Hwy., Los Angeles, CA 90045, Officers: Andy Kung, President (Qualifying Individual), Chi Fu Meng, General Manager

Beacon Logistics, Inc., 460 E. Carson Plaza Dr., Suite #218, Carson, CA 90746, Officers: Sophia Song, CEO (Qualifying Individual), Daniel H. Cho, Secretary

Drake Logistics, L.L.C., 124 Finhurst Drive, Atlanta, GA 30339, Officers: Danny Lee Roberts, President (Qualifying Individual), Augustine E. Clarke, III, Vice President

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Just In Time Services, Inc., 8600 N.W. 53 Terr., Suite 123, Miami, FL 33166, Officers: Diane Provenzano, Vice President (Qualifying Individual), Jesus Martin, Director

Mega-Trans, Inc., 1080 Randolph Avenue, Suite 5, Rahway, NJ 07065, Officers: John Powers, General Manager (Qualifying Individual), Joseph Venetucci, President

Efren Jimenez, 735 Indiana Avenue, Trenton, NJ 08638, Sole Proprietor

Hoosier Forwarding, LLC, 22500 Lincolnway West, South Bend, IN 46634–4483, Officer: Peter F. Baranay, Manager (Qualifying Individual)

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Surburan Moving & Storage Inc., 1720 Willow Avenue, Weehawken, NJ 07087, Officer: Ornit Levinson, President (Qualifying Individual)

A.S.L. Logistics Corp., 11613 N.W. 51 Lane, Miami, FL 33178, Officers: Jackeline Alers, President (Qualifying Individual), Raul Duany, Vice President

Dated: March 9, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–6344 Filed 3–14–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Notice

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12 noon, Monday, March 19, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: March 9, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–6398 Filed 3–12–01; 10:05 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Meeting of the Advisory Committee on Minority Health

AGENCY: Office of the Secretary, Office of Public Health and Science, Office of Minority Health.

ACTION: Notice is given of the first meeting.

The Advisory Committee on Minority Health will meet on Thursday, March 29, 2001, from 9 a.m. to 5 p.m., and Friday, March 30, 2001, from 8:30 a.m.–12 Noon. The meeting will be held at the Holiday Inn Georgetown, Mirage II Room, 2101 Wisconsin Avenue, NW., Washington, DC.

The Advisory Committee will discuss racial and ethnic disparities in health, as well as, other related issues.

The meeting is open to the public. There will be an opportunity for public comment which will be limited to five minutes per speaker. Individuals who would like to submit written statements should mail or fax their comments to the Office of Minority Health at least two business days prior to the meeting.

For Further information, please contact Ms. Patricia Norris, Office of Minority Health, Rockwall II Building, 5515 Security Lane, Suite 1000, Rockville, Maryland 20852. Phone: 301–443–5084. Fax: 301–594–0767.

Dated: March 8, 2001.

Nathan Stinson, Jr.,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 01–6327 Filed 3–13–01; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AoA–01–02]

Fiscal Year 2001 Program Announcement; Availability of Funds and Notice Regarding Applications

AGENCY: Administration on Aging, HHS.

ACTION: Announcement of availability of funds and request for applications for the Alzheimer's Disease Demonstration Grants to States Program (ADDGS), to (1) develop models of assistance for

persons with Alzheimer's disease and their families, and (2) improve the responsiveness of existing home and community based care systems for persons with Alzheimer's disease and related disorders and their families.

APPLICANT ELIGIBILITY AND REQUIREMENTS: Eligibility for grant awards is limited to state agencies. Only one application per state will be accepted. Applicants must provide a letter from their state's Governor designating the applicant agency as the sole applicant for the state. The sixteen states currently funded under the ADDGS program are not eligible to apply.

Grantees are required to provide a 25% non-federal match during the first year, 35% during the second year, and 45% during the third year of the grant.

SUMMARY: The Administration on Aging announces that under this program announcement it will hold a competition for grant awards for seven (7) to ten (10) projects at a federal share of approximately $250,000–$350,000 per year for a project period of three years. The purpose of these projects is to develop services and assistance, and improve the home and community based care system to better respond to the needs of persons with Alzheimer's disease, their families, and caregivers.

The deadline date for the submission of applications is 60 days after publication of this notice.

Application kits are available by writing to the Department of Health and Human Services, Administration on Aging, Office of Program Operation and Development, 330 Independence Ave., SW., Wilbur J. Cohen Building, Room 4733, Washington, DC 20201, or by calling 202/401–4547 or 202/619–1352.

Dated: March 8, 2001.

Norman L. Thompson,

Acting Principal Deputy Assistant Secretary for Aging.

[FR Doc. 01–6294 Filed 3–13–01; 8:45 am]

BILLING CODE 4154–01–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Scientific Consultation: Meeting

The Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Protocol Review for Neurodevelopmental Evaluation Study.

Times and Dates: 10:30 a.m.–5:30 p.m., March 26, 2001; 8:30 a.m.–3:30 p.m., March 27, 2001.

Place: Atlanta Marriott Century Center, 2000 Century Boulevard, NE., Atlanta, GA 30345–3377. Telephone: (404) 325–0000.

Status: Open to the public, limited only by space available.

Purpose: The Centers for Disease Control and Prevention announces a meeting of expert consultants.

Matters to be Discussed: The agenda will include the review and discussion on the design of a protocol for a neurodevelopmental examination study looking at thimerosal containing vaccines and the possible association with selected neurodevelopmental outcomes. A period for public comment will be made available each day. Individuals wishing to provide public comment should notify the contact person listed in this announcement.

Contact Person for More Information: Gina Mootrey, D.O., M.P.H., Senior Research Officer, Vaccine Safety and Development Activity, Epidemiology and Surveillance Division, National Immunization Program, CDC, 1600 Clifton Road, NE, m/s E61, Atlanta, Georgia 30333. Telephone (404)639–8256.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: March 8, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–6298 Filed 3–13–01; 8:45 am]

BILLING CODE 4163–18–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 66 FR 1363–1364, dated January 8, 2001) is amended to reorganize the Division of Violence Prevention, National Center for Injury Prevention and Control.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete the functional statement for the *Division of Violence Prevention (CE4), National Center for Injury Prevention and Control (CE),* and insert the following:

(1) Provides leadership in developing and executing a national program for the prevention and control of non-occupational violence-related injuries and death which addresses, but is not limited to, youth violence, intimate partner violence, sexual violence, suicide, elder abuse, and child abuse; (2) develops and disseminates policies, recommendations, and guidelines for the prevention of violence and its consequences; (3) proposes goals and objectives for national violence prevention and control programs, monitors progress toward these goals and objectives, and recommends and develops guidelines for priority prevention and control activities; (4) facilitates similar strategic planning activities by other Federal, State, and local agencies, academic institutions, and private and other public organizations; (5) plans, directs, conducts, and supports research focused on the causes of violence and the development and evaluation of strategies to prevent and control violence-related injuries and deaths; (6) plans, establishes, and evaluates surveillance systems to monitor national trends in morbidity, mortality, disabilities, and cost of violence-related injuries and deaths, and facilitates the development of surveillance systems by State and local agencies; (7) plans, conducts, supports, and evaluates demonstration projects and programs to prevent and control violence; (8) provides technical assistance, consultation, training, and eipemiological, statistical, educational, and other technical services to assist State and local health departments and community-based organizations in the planning, development, implementation, evaluation, and overall improvement of violence prevention programs; (9) supports the dissemination of research findings and transfer of violence prevention and control technologies to Federal, State, and local agencies, private organizations, and other national and international groups; (10) in carrying out the above functions, collaborates with other Divisions of NICIPC, CDC Centers/Institute/Offices, HHS, other Federal, State, and local departments and agencies, academic institutions, and voluntary, private sector, and international organizations, as appropriate.

Office of the Director (CE41). (1) Plans, directs, and evaluates the activities of the Division; (2) provides national leadership and guidance in policy formation and program planning,

development, and evaluation; (3) provides administrative, fiscal, and technical support for Division programs and units; (4) assures multi-disciplinary collaboration in violence prevention and control activities; (5) provides leadership for developing research in etiologic, epidemiologic, and behavioral aspects of violence prevention and control, and for coordinating activities within the Division and others involved in violence prevention; (6) prepares, edits, and monitors clearance of manuscripts for publication in scientific and technical journals and publications, including articles and guidelines published in the "MMWR," and other publications for the public; (7) prepares, tracks and coordinates controlled and general correspondence; (8) prepares responses and coordinates provision of materials requested by Congress and the Department of Health and Human Services; (9) coordinates international violence prevention and control activities of the Division; (10) collaborates, as appropriate, with other divisions and offices in NCIPC, and with other CIOs throughout CDC; (11) collaborates, as appropriate, with non-governmental organizations to achieve the mission of the Division, (12) establishes linkages with other CIOs and national level prevention partners that impact on violence prevention programs.

Etiology and Surveillance Branch (CE42). (1) Plans, directs, conducts, and supports research focused on identifying high-risk population groups, causal factors, and other risk and protective factors, including psychosocial, cultural, and contextual determinants, for violence and its consequences; (2) conducts national surveillance and surveys of violence and its consequences, analyzes incidence and prevalence data, and monitors trends in violence and its trajectory across the lifespan; (3) identifies research findings and technologies that have potential to prevent or control violence and its consequences; (4) assists State and local health agencies to establish violence surveillance systems and to utilize surveillance data to describe the state or local burden of violence; (5) designs and conducts other etiologic and epidemiologic research that contributes to scientific knowledge regarding violence; (6) monitors activities of contracts, cooperative agreements, and grants to ensure operational objectives are being met; (7) provides information on violence surveillance and epidemiology to the scientific community and the general public through publications and presentations that include, but are not limited to, quantitative syntheses; (8) works with other branches to stimulate the development, evaluation, and dissemination of intervention and prevention strategies; (9) provides leadership and expands collaborations with other Federal, State, local, voluntary, professional and international organizations in all aspects of surveillance and etiologic research activities of violence and its consequences.

Prevention Development and Evaluation Branch (CE43). (1) Plans, directs, conducts, and supports applied research focused on the development and evaluation of strategies and interventions to prevent violence-related injuries and deaths; (2) develops and evaluates methodologies for conducting program evaluation; (3) evaluates the effectiveness, costs, and impact of violence prevention interventions, strategies, policies, and programs as practiced or implemented by public health agencies and organizations at the national/regional and state/local levels; (4) uses research findings to develop and improve the impact of interventions to reduce risk factors for violent behavior and its consequences; (5) assesses socioeconomic, educational, and other factors for use in targeting and evaluating prevention programs; (6) collaborates in the application of evaluation findings and techniques to the ongoing assessment and improvement of violence prevention and control programs; (7) conducts research activities that include economic evaluations of violence prevention, including assessment of alternative prevention strategies to encourage the best use of prevention resources; (8) applies evaluation methods to improve violence prevention activities, including serving as a resource to other branches, grantees, and prevention partners in the development of methods to support systematic assessment and continuous improvement of violence prevention programs; (9) monitors activities of contracts, cooperative agreements, and grants to ensure operational objectives are being met; (10) works with other branches to stimulate etiologic research, surveillance, and programmatic activities; (11) contributes to the intervention research literature by publishing regularly in peer-reviewed journals and CDC-sponsored publications that include, but are not limited to, the synthesis of the implementation and evaluation of violence prevention and intervention strategies; (12) collaborates with other components within CDC and HHS and other Federal agencies, national professional, voluntary and philanthropic organizations and international agencies.

Program Implementation and Dissemination Branch (CE44). (1) Provides programmatic leadership and support for violence prevention and control programs at the state, local, and community levels through the development and dissemination of policies, recommendations, and guidelines for the prevention of violence and its consequences; (2) conducts research to examine the processes and factors that influence effective and efficient translation, diffusion, and sustainability of intervention research findings to violence prevention programs; (3) works with other Division branches to synthesize, translate, and disseminate research findings applicable to violence prevention program managers, practitioners, and policy-makers through training, conferences, newsletters, and other means; (4) provides technical consultation, support, and services to national, State, and local health agencies, and non-governmental organizations to plan, develop, and implement violence prevention programs and to evaluate the overall quality and effectiveness of prevention activities; (5) assesses training and technical assistance needs and develops strategies to address the training of grantee organizations, other external partners involved in violence prevention programs and activities, and Division staff; (96) monitors, tracks, and assesses program activities in state-based violence prevention programs; (7) develops and maintains liaison and collaborative relationships with professional, community, international, and voluntary agencies involved in violence prevention and control activities; (8) provides linkages between health department violence programs and other governmental and non-governmental agencies, and managed care community or private medical sector to enhance and evaluate violence prevention services in public and private health care delivery systems; (9) monitors activities of contracts, cooperative agreements, and grants to ensure operational objectives are being met; (10) produces and provides scientific, statistical, visual, and technical information and materials on violence prevention for dissemination to health care professionals, public health officials, prevention partners, the media,

and the general public, through publications, newsletters, bibliographies, press releases, public service announcements, and other electronic and printed materials; (11) maintains a specialized collection of violence resources that includes subject files and reprints of CDC-authored publications and "MMWR" articles; (12) works closely with relevant offices or groups, including the NCIPC Office of Communication Resources and the CDC Office of Communication, to secure appropriate clearance of materials; (13) implements national violence prevention public information programs and assists in developing strategic communications activities and services at the national level to inform and educate the American public about violence, especially people who are at greatest risk.

Dated: March 5, 2001.

Jeffrey P. Koplan,

Director.

[FR Doc. 01–6281 Filed 3–13–01; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–372]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, DHHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Annual Report on Home and Community Based Services Waivers and Supporting Regulations in 42 CFR 440.181 and 441.300–.305;

Form No.: HCFA–372 (OMB# 0938–0272);

Use: States request waivers in order for beneficiaries to have the option of receiving hospital services in their homes. States with an approved waiver under section 1915(c) of the Act are required to submit the HCFA–372 or HCFA–372(S) annually in order for HCFA to: (1) Verify that State assurances regarding waiver cost-neutrality are met, and (2) determine the waiver's impact on the type, amount and cost of services provided under the State plan and health and welfare of recipients;

Frequency: Annually; *Affected Public:* State, local or tribal government;

Number of Respondents: 50;

Total Annual Responses: 243;

Total Annual Hours: 18,225.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Attn: HCFA 372, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 27, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–6251 Filed 3–13–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–2079–PN]

Medicare and Medicaid Programs; Recognition of the American Osteopathic Association for Ambulatory Surgical Centers Program

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

ACTION: Proposed Notice.

SUMMARY: In this notice we announce the receipt of an application from the American Osteopathic Association (AOA), for recognition as a national accreditation program for ambulatory surgical centers that wish to participate in the Medicare or Medicaid programs. The Social Security Act requires that the Secretary publish a notice identifying the national accreditation body making the request, describing the nature of the request, and providing at least 30-day public comment period.

DATES: We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on April 13, 2001.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–2079-PN, P.O. Box 8013, Baltimore, MD 21244–8013.

To ensure that mailed comments are received in time for us to consider them, please allow for possible delays in delivering them.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5–16–03, 7500 Security Boulevard, Baltimore, MD 21244–8013.

Comments mailed to the above addresses may be delayed and received too late for us to consider them.

Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–2079-PN. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's office at 200 Independence Avenue, SW., Washington, DC, on Monday

through Friday of each week from 8:30 to 5 p.m. (phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Joan C. Berry, (410) 786–7233.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in an ambulatory surgical center (ASC) provided certain requirements are met. Section 1832(a)(2)(F)(i) of the Social Security Act (the Act) includes the requirements that an ASC have an agreement in effect with the Secretary and meet health, safety, and other standards specified by the Secretary in regulations. Regulations concerning supplier agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. Our regulations at 42 CFR 416 specify the conditions that an ASC must meet in order to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for facility services.

Generally, in order to enter into an agreement, an ASC must first be certified by a State survey agency as complying with the conditions or requirements set forth in part 416 of our regulations. Then, the ASC is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements. There is an alternative, however, to surveys by State agencies.

Section 1865(b)(1) of the Act provides that if the Secretary finds that accreditation of a provider entity by a national accreditation body demonstrates that all of the applicable conditions and requirements are met or exceeded, the Secretary shall deem those provider entities as meeting the applicable Medicare requirements. Section 1865(b)(2) of the Act further requires that the Secretary's findings consider the applying accreditation organization's requirements for accreditation, its survey procedures, its ability to provide adequate resources for conducting required surveys and ability to supply information for use in enforcement activities, its monitoring procedures for provider entities found out of compliance with the conditions or requirements, and its ability to provide the Secretary with necessary data for validation. Section 1865(b)(3)(A) of the Act requires that the Secretary publish within 60 days of receipt of a completed application, a notice identifying the national accreditation body making the request, describing the nature of the request, and providing at least a 30-day public comment period. In addition, the Secretary has 210 days from the receipt of the request to publish a finding of approval or denial of the application.

II. Determining Compliance—Surveys and Deeming

Providers of health care services participate in Medicare and Medicaid programs pursuant to provider agreements with HCFA (for Medicare) and State Medicaid agencies (for Medicaid). Generally, in order to enter into a provider agreement, an entity must first be certified by a State survey agency as complying with the conditions or standards set forth in Federal law and regulations. Providers are subject to regular surveys by State survey agencies to determine whether the provider continues to meet these requirements.

A provider deemed through accreditation is one that has voluntarily applied for and been accredited by a national accreditation program that HCFA has determined applies and enforces standards that meet or exceed the applicable Medicare conditions or requirements. Section 1865(b) of the Act essentially permits these deemed providers of services to be exempt from routine surveys by State survey agencies to determine compliance with Medicare requirements. If the Secretary finds that the accreditation of the provider by the national accreditation body demonstrates that all the Medicare conditions and standards are met or exceeded, then the Secretary would "deem" the requirements to be met by the provider entity.

A national accrediting organization may request the Secretary to recognize its program. The Secretary then examines the national accreditation organization's accreditation requirements to determine if they meet or exceed the Medicare conditions as HCFA would have applied them. If the Secretary recognizes an accreditation organization in this manner, any provider accredited by the national accrediting body's HCFA approved program for that service will be "deemed" to meet the Medicare conditions of coverage. To date, three such organizations have been recognized to have deeming authority for their ambulatory surgical programs: the Joint Commission on Accreditation of Health Organizations, the Accreditation Association for Ambulatory Health Care, and the American Association for Accreditation of Ambulatory Surgery Facilities, Inc.

The purpose of this notice is to notify the public of the request of American Osteopathic Association (AOA) for approval of its request that the Secretary find its accreditation program for ambulatory surgical centers meet or exceed the Medicare conditions. This notice also solicits public comments on the ability of this organization to develop and apply standards to ASCs which meet or exceed the Medicare conditions for coverage. Our regulations concerning approval of accrediting organizations are at 42 CFR 488.4, 488.6, and 488.8.

III. Ambulatory Surgical Center Conditions for Coverage and Requirements

The regulations specifying the Medicare conditions for coverage for ambulatory surgical centers are located in 42 CFR part 416. These conditions implement section 1832(a)(2)(F)(i) of the Act, which provides for Medicare Part B coverage of facility services furnished in connection with surgical procedures specified by the Secretary under section 1833(i)(1)(a) of the Act.

Under section 1865(b)(2) of the Act and our regulations at § 488.8 (Federal review of accreditation organizations) our review and evaluation of a national accreditation organization will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of an accreditation organization's requirements for an entity to our comparable requirements for the entity.
- The organization's survey process to determine the following:
- The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.
- The comparability of its processes to that of State agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.
- The organization's procedures for monitoring providers or suppliers found by the organization to be out of compliance with program requirements. These monitoring procedures are used only when the organization identifies noncompliance. If noncompliance is identified through validation reviews, the survey agency monitors corrections as specified at § 488.7(d).
- The ability of the organization to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.
- The ability of the organization to provide us with electronic data in ASCII comparable code, and reports necessary for effective validation and assessment of the organization's survey process.

- The adequacy of staff and other resources, and its financial viability.
- The organization's ability to provide adequate funding for performing required surveys.
- The organization's policies with respect to whether surveys are announced or unannounced.
- The accreditation organization's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require (including corrective action plans).

IV. Notice Upon Completion of Evaluation

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a notice in the **Federal Register** announcing the result of our evaluation.

V. Responses to Public Comments

Because of the large number of comments we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble and will respond to them in a forthcoming rulemaking document.

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

Authority: Section 1865 of the Social Security Act (42 U.S.C. 1395bb).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 2, 2001.

Michael McMullan,

Acting Deputy Administrator, Health Care Financing Administration.

[FR Doc. 01–6311 Filed 3–13–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health, National Institute on Child Health and Human Development; Opportunity for Cooperative Research and Development Agreement

SUMMARY: The National Institute of Child Health and Human Development (NICHD) is seeking research statements from parties interested in entering into a Cooperative Research and Development Agreement (CRADA). The purpose of the CRADA is to develop diagnostic and therapeutic uses of the newly identified human MATER (Maternal Effect Gene) gene and protein that are critical for normal oocyte function and fertility. The project is part of the ongoing activities of the Developmental Endocrinology Branch (DEB), Division of Intramural Research, NICHD. The term of the CRADA will be up to five (5) years.

DATES: Interested parties should notify this office in writing of their intent to file a formal proposal no later than April 13, 2001. Formal proposals must be submitted to this office no later than May 14, 2001.

ADDRESSES: Research Statements should be submitted to Kate Sinclair Dunn, Technology Development Specialist, Technology Development and Commercialization Branch, National Cancer Institute, National Institutes of Health, Executive Plaza South, Room 450, 6120 Executive Blvd., MSC 7182, Bethesda, MD 20892–7182, Phone: 301–496–0477, Fax: 301–402–2117, e-mail *sinclaik@otd.nci.nih.gov.* Scientific questions should be addressed to Lawrence M. Nelson, M.D., Head, Gynecological Endocrinology Unit Developmental Endocrinology Branch, NICHD, NIH, Building 10, Room 10N262, Bethesda, MD 20892–1862; Phone (direct): 301–402–6608, Office: 301–496–4686; Fax: 301–402–0574, e-mail: *Lawrence Nelson@nih.gov.* Inquiries directed to obtaining patent license(s) related to participation in the CRADA opportunity should be addressed to Dennis Penn, Pharm.D., MPH, Senior Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Blvd., Suite 325, Rockville, MD 20852–3804, Phone: 301–496–7735, Fax: 301–402–0220, e-mail: *pennd@od.nih.gov.*

SUPPLEMENTARY INFORMATION: A CRADA is the anticipated joint agreement to be entered into by NICHD and a collaborator pursuant to the Federal Technology Transfer Act of 1986 (15 U.S.C. 3710 a), as amended. A CRADA is an agreement designed to enable certain collaborations between Government laboratories and non-Government laboratories. It is not a grant, and is not a contract for the procurement of goods/services. THE NICHD IS PROHIBITED FROM TRANSFERRING FUNDS TO A CRADA COLLABORATOR. Under a CRADA, the NICHD can offer the selected collaborator access to facilities, staff, materials, and expertise. The collaborator may contribute facilities, staff, materials, expertise, and funding to the collaboration. A CRADA collaborator may elect an option to an exclusive or non-exclusive license to Government intellectual patent rights arising under the CRADA, and may qualify as a co-inventor of new technology developed under the CRADA. As between two or more sufficient, overlapping research proposals (where the overlap cannot be cured), the NICHD, as specified in 15 U.S.C. 3710a(c)(4), will give special consideration to small businesses, and will give preference to business units located in the U.S. that agree to manufacture CRADA products in the U.S.

The CRADA will employ a MATER null mouse line to examine the role of MATER in maintaining oocyte quality so as to support healthy early embryonic development. The project goal is to determine if abnormalities in the amount or quality of oocyte MATER content play a role in some cases of human infertility that is generally ascribed to "poor egg quality" or a failure of early embryonic development. A strategy should be developed to measure MATER's biologic activity, to determine the MATER content of human oocytes, and to detect MATER gene mutations. Preimplantation mouse oocytes and embryos may be used for protein analysis and profiling. Basic science expertise as applied to oocyte function in animal models and in the clinical setting will be required.

The described methods are the subject of a U.S. provisional patent application filed October 18, 2000 by the Public Health Service on behalf of the Federal Government. Furthermore, the initial report and characterization of the invention is described in: Tong et al., Mamm. Genome 11:281–287, 2000. Commercialization of new CRADA technology may require obtaining an appropriate PHS license.

The collaborator in this endeavor is expected to commit scientific personnel commensurate with the level of research activities defined by the CRADA Research Plan. It is anticipated that PHS laboratories and/or those of the collaborator will be utilized, as appropriate, for the research activities as defined by the Research Plan. NICHD anticipates, in addition, that the Collaborator, as appropriate, will provide funding for the project.

Party Contributions: The NICHD anticipates that its role may include, but not be limited to, the following:

(1) Plan research studies, interpret research results, and, as appropriate, jointly publish the conclusions with the collaborator;

(2) Provide collaborator with access to existing NICHD research data (both already collected and yet to be collected);

(3) Provide staff, expertise, and materials for the development and testing of promising products;

(4) Provide work space and equipment for testing of any prototype compositions developed.

The NICHD anticipates that the role of the successful collaborator will include the following:

(1) Provide significant intellectual, scientific, and technical expertise in the development and manufacture of relevant products;

(2) Plan research studies, interpret research results, and, as appropriate, jointly publish the conclusions; and

(3) Provide NICHD a supply of necessary materials, access to necessary proprietary technology and/or data, and as necessary for the project, staff and funding in support of the research goals.

Other contributions may be necessary for particular proposals.

Selection Criteria: Proposals submitted for consideration should address, as best as possible and to the extent relevant to the proposal, each of the following:

(1) Expertise:

A. Scientific advisors and staff with a demonstrated record of research success related to diagnostic and therapeutic interventions associated with human fertility.

(i) The technical expertise of the Collaborator's Principal Investigator and laboratory group in the technology described above,

(2) Reliability as a research partner:

A. Willingness to commit best effort and to provide adequate and sustained resources and/or funding, as appropriate, to support the CRADA studies, and

B. Development of this technology, as outlined in the CRADA Collaborator's proposal, and

C. Ability to develop and produce products in a timely manner, as applicable (for example, as demonstrated by a history of meeting benchmarks in licenses), and

D. Commitment to supporting the advancement of scientific research, as evidenced by a willingness to jointly publish research results in a prompt manner, and

E. Willingness to be bound by DHHS and PHS policies regarding:

(i) The public distribution of unmodified genetic sequences and research tools,

(ii) The care and handling of animals, and

(iii) Testing in human subjects.

(3) Physical Resources:

A. An established headquarters, with office space and basic office equipment, and

B. Access to the organization during business hours by telephone, facsimile, courier, U.S. Post, e-mail, the World-Wide-Web, and, as appropriate, other evolving information technologies, and

C. Sufficient financial and material resources to support, at a minimum, the anticipated activities of the CRADA to meet the needs of NICHD under the proposal.

The collaborator is encouraged to propose, in the written research statement, related applications and technologies other than those specifically described herein.

Dated: February 26, 2001.

Kathleen Sybert,

Chief, TDCB/NCI/NIH.

[FR Doc. 01–6274 Filed 3–13–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

ADDRESSES: Licensing information and a copy of the U.S. patent application referenced below may be obtained by contacting Richard U. Rodriguez, M.B.A., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7056 ext 287; fax 301/402–0220; e-mail rodrigur@od.nih.gov). A signed Confidential Disclosure Agreement is required to receive a copy of any patent application.

Entitled: "GHEP, A Gene Highly Expressed in Normal and Neoplastic Prostate, and Uses Therefor."

Inventors: Drs. Ira H. Pastan (NCI), Par Olsson (NCI), Tapan K. Bera (NCI), Magnus Essand (NCI), and Byungkook Lee (NCI).

DHHS Ref. No. E–144–00/0 Filed: October 10, 2000.

Two types of immunotherapy are currently being intensively pursued for the treatment of cancer. One is the development of antibodies that recognize cell surface antigens. These antibodies can be useful by themselves or can be armed with radioisotopes, drugs or toxins to kill cancer cells. The second approach is to develop vaccines that target intracellular proteins presented as peptides on the cell surface bound to the major histocompatability complex. For these therapies to be effective it is important that the antigen is present on tumor cells and is not expressed in substantial amounts on essential normal cells such as liver, heart, brain or kidney. Recent work has focused on the identification of new differentiation antigens that are present in normal prostate and continue to be expressed in prostate cancer.

The claimed invention provides a Gene Highly Expressed in Prostate ("GHEP"). The gene is found in normal and neoplastic prostate, and encodes two short proteins, one 34 amino acids ("ghep34") in length and one 35 amino acids in length ("ghep35"). Detection of the transcript or of the proteins in tissues other than the prostate is indicative of prostate cancer. The nucleic acids, proteins, and immunogenic fragments thereof can be used to raise an immune response, for example, via a vaccine, to prostate cancer. This approach could involve active in vivo treatments as well as passive ex vivo approaches to slow or inhibit the growth of GHEP-expressing cancers.

The invention further provides methods of detecting the proteins or the gene transcript in a biological sample. If the biological sample is from a tissue other than the prostate, detection of either of the protein or of the gene transcript is indicative of the presence of prostate cancer in the subject from whom the sample was taken. The invention further provides antibodies that specifically recognize ghep34 and antibodies that specifically recognize ghep35, as well as kits for the detection of one or both of the proteins in a sample.

The above mentioned invention is available for licensing on an exclusive or non-exclusive basis.

Dated: March 6, 2001.

Jack Spiegel,

Director, Division of Technology Development & Transfer, Office of Technology Transfer.

[FR Doc. 01–6271 Filed 3–13–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting Susan S. Rucker, J.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone 301/496–7056 ext. 245; fax 301/402–0220; e-mail ruckers@od.nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Hybrid Adeno-Retroviral Vector for the Transformation of Cells

C Zheng, B O'Connell, BJ Baum (NIDCR)
Serial No. 60/265,198 filed Jan 30, 2001

This invention described and claimed in this patent application provides for novel hybrid vectors which may be used for cell transformation either in vivo, in vitro, or ex vivo. The hybrid vectors, which are capable of integrating into the chromosome of the host cell and are capable of transforming dividing or non-dividing cells, have an adenoviral backbone and only a single retroviral long terminal repeat (LTR). Due to their hybrid nature, these vectors provide a means of efficient, reliable, long-term gene expression. Furthermore, unlike other chimeric or hybrid vector systems only a single vector is required to deliver a transgene of interest and retroviral structural proteins are not required. The vectors may be packaged and delivered via a viral particle or directly to the target cell.

ARG, a Human Gene Related to but Distinct From ABL Proto-Oncogene

GD Kruh, SA Aaronson (NCI)
Serial No. 07/559,029 filed Jul 30, 1990 now US Patent 5,693,778 issued Dec 02, 1997

This patent relates to the identification, isolation and cloning of the gene ARG (abelson related gene) also known as ABL2. ARG/ABL2 is located on the long arm of chromosome 1 at 1q24-q25. It is a non-receptor tyrosine kinase. Recent work, by Iijima, et al. Blood 95(6): 2126–2131 (March 15, 2000) and Cazzaniga, et al Blood 94(12):4370–4373 (December 15, 1999), has demonstrated that ABL2/ARG is a partner with the ETV6/TEL gene. ETV6/TEL, located on the short arm of chromosome 12 at 12p13 has previously been implicated in hematological disease, particularly leukemias, through chromosomal translocations. The fusion protein derived from this partnership between ETV6/TEL and ARG/ABL2 includes exons 1–5 of ETV6 (5' PNT region) and the 3' portion of ARG/ABL2 beginning with exon 1B or 2 which contains all of the functional domains of ARG/ABL2. This new work suggests that ARG plays a role in AML and possibly other leukemias.

This work has been published at Kruh GD, et al. Science 234(4783):1545–8 (Dec 19, 1986) and Kruh GD, et al. PNAS, USA 87:5802 (Aug 1990).

Dated: March 6, 2001.

Jack Spiegel,

Director, Division of Technology, Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–6272 Filed 3–13–01; 8:45 am]
BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Novel Attenuated Strains of Mycobacterium Tuberculosis

CE Barry, Y Yuan, D Crane (NIAID)
DHHS Reference No. E–238–97/2 filed Jun 27, 2000
Licensing Contact: Carol Salata; 301/496–7735 ext. 232; e-mail: salatac@od.nih.gov

This invention provides for novel attenuated strains of *Mycobacterium tuberculosis* and *M. bovis*. Attenuation is achieved by deleting the gene encoding the alpha-crystallin heat shock protein ("acr gene"). This gene contributes to the virulence of the organism. Since this strain is isogenic with virulent *M. tuberculosis* but for this deletion, the full complement of antigens remains present and the organism is viable *in vitro*. The invention provides for vaccines and methods of vaccinating mammals for protection against *Mycobacterium sp.* that cause tuberculosis. This invention was filed as PCT/US98/14227 on Jul 09, 1998.

Methods and Compositions for Transforming Dendritic Cells and Activating T Cells

Patrick Hwu, Mark E. Reeves, Steven A. Rosenberg (NCI)
DHHS Reference Nos. E–040–96/0 filed Feb. 08, 1996, E–040–96/1 filed Feb. 07, 1997
(PCT/US97/02063); E–040–96/2 filed Jan. 07, 1999
Licensing Contact: Elaine White; 301/496–7056 ext. 282; e-mail: gesee@od.nih.gov

This invention describes a novel method for making transformed dendritic cells, which are potent antigen presenting cells capable of stimulating the immune system. Hematopoietic stem cells are transformed with a specific nucleic acid; the transformed cell is then differentiated into a dendritic cell *in vitro*. The nucleic acid produces a polypeptide, fragments of which are expressed on the major histocompatibility complex (MHC) receptors on the surface of the dendritic cell. These cells may then be used to activate T cells against specific target antigens. Use of specific antigens for transduction into the dendritic cells is described. The invention therefore may represent a valuable tool for use in the treatment of a number of diseases,

including various cancers and viral infections such as HIV.

Dated: March 6, 2001.

Jack Spiegel,

Director, Division of Technology, Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–6273 Filed 3–13–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer 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 Cancer Institute Special Emphasis Panel, T32 Grant Application.

Date: March 12, 2001.

Time: 2 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: 6116 Executive Boulevard., 8th Floor, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: David E. Maslow, Ph.D., Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard—Room 8117, Bethesda, MD 20892–7405, 301/496–2330.

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. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399. Cancer Control, National Institutes of Health, HHS)

Dated: March 5, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–6255 Filed 3–13–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of 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 meetings of the National Advisory Research Resources Council.

The meetings 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 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 Advisory Research Resources Council, Executive Subcommittee.

Date: May 17, 2001.

Time: 8 am to 9 am.

Agenda: To discuss policy issues.

Place: National Center for Research Resources, National Institutes of Health, Conference Room 3B13, Building 31, Bethesda, MD 20892.

Contact Person: Louise E. Ramm, Ph.D., Deputy Director, National Center for Research Resources, National Institutes of Health, Building 31, Room 3B11, Bethesda, MD 20892, 301–496–6023.

Name of Committee: National Advisory Research Resources Council.

Date: May 17, 2001.

Time: 9:15 am to 3 pm.

Agenda: Report of Center Director and other issues.

Place: National Institutes of Health, 9000 Rockville Pike, Conference Room 10, Building 31C, Bethesda, MD 20892.

Closed: 3 pm to adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Conference Room 10, Building 31C, Bethesda, MD 20892.

Contact Person: Louise E. Ramm, Ph.D., Deputy Director, National Center for Research Resources, National Institutes of Health, Building 31, Room 3B11, Bethesda, MD 20892, 301–496–6023.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: March 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–6266 Filed 3–13–01; 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 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Grants (R13s).

Date: April 6, 2001.

Time: 2 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: NIEHS–East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: J. Patrick Mastin, Ph.D., Scientific Review Administrator, National Institute of Environmental Health Science, P.O. Box 12233, MD EC–24, Research Triangle Park, NC 27709, 919–541–1446.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Products/Devices/ Biomarkers for Measuring Exposure to Environmental Agents: SBIR Initiative (RFA 00–009).

Date: April 17, 2001.
Time: 8:30 am to 12:30 pm.
Agenda: To review and evaluate grant applications.
Place: NIEHS–East Campus, 79 T W Alexander Dr., Bldg. 4401, Rm EC–122, Research Triangle Park, NC 27709, (Telephone Conference Call).
Contact Person: Brenda K. Weis, Ph.D., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, National Institute 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, Products/Devices/ Biomarkers for Measuring Exposure to Environmental Agents: SBIR Initiative (RFA 00–009).
Date: April 17, 2001.
Time: 1 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: NIEHS–East Campus, 79 TW Alexander Drive, Building 4401, Room 3446, Research Triangle Park, NC 27709, (Telephone Conference Call).
Contact Person: Brenda K. Weis, Ph.D., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, National Institute 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, Products/Devices/ Biomarkers for Measuring Exposure to Environmental Agents: SBIR Initiative (RFA 00–009).
Date: April 18, 2001.
Time: 8:30 am to 12:30 pm.
Agenda: To review and evaluate grant applications.
Place: NIEHS–East Campus, 79 T W Alexander Dr., Bldg. 4401, Rm EC–122, Research Triangle Park, NC 27709, (Telephone Conference Call).
Contact Person: Brenda K. Weis, Ph.D., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, National Institute 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, Program Project Grant Applications.
Date: April 22–24, 2001.
Time: 7 pm to 11 am.
Agenda: To review and evaluate grant applications.
Place: Clarion Hotel Atrium & Conference Center, 2900 Jackson Road, Ann Arbor, MI 48103.
Contact Person: Brenda K. Weis, Ph.D., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, National Institute 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 Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS).

Dated: March 5, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–6256 Filed 3–13–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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, NIDDK.

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 Diabetes and Digestive and Kidney Diseases, 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, NIDDK.
Date: April 11–13, 2001.
Time: April 11, 2001, 6 p.m. to 6:30 p.m.
Agenda: Introductions and Overview.
Place: National Institutes of Health, Building 5, Room 127, Bethesda, MD 20892.
Closed: April 11, 2001, 6:30 p.m. to adjournment.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: National Institues of Health, Building 5, Room 127, Bethesda, MD 20982.
Closed: April 12, 2001, 8 a.m. to adjournment.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: National Institutes of Health, Building 5, Room 127, Bethesda, MD 20892.
Closed: April 13, 2001, 8 a.m. to 12 p.m.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: National Institutes of Health, Building 5, Room 127, Bethesda, MD 20892.
Contact Person: Ira W. Levin, Ph.D., Acting Director, Division of Intramural Research, National Institute of Diabetes and Digestive and Kidney Diseases, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 5, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–6257 Filed 3–13–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–4(M4).
Date: March 30, 2001.
Time: 10 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: 2 Democracy Plaza, 6707 Democracy Boulevard, 6th Floor, Room 647, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: William E. Elzinga, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 647, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8895.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 5, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–6258 Filed 3–13–01; 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 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 Allergy and Infectious Diseases Special Emphasis Panel, Primate Models to Evaluate HIV Prevention & Therapeutic Strategies.

Date: March 21, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC.

Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550, gm145a@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. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 5, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–6259 Filed 3–13–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Mental Health Special Emphasis Panel, March 2, 2001, 1 p.m. to March 2, 2001, 2 p.m. Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 which was published in the **Federal Register** on February 23, 2001, 66 FR 11302.

The meeting will be held on Monday, April 9, 2001, as a telephone conference from 9 a.m. to 10:30 a.m. at the Neuroscience Center. The meeting is closed to the public.

Dated: March 6, 2001.

Laverne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–6260 Filed 3–13–01; 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 of 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: April 17–18, 2001.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: American Inn, 8130 Wisconsin Avenue, Bethesda, Md 20814.

Contact Person: Jon M. Ranhand, Ph.D., Scientist Review Administrator; Divison of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

(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)

March 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–6262 Filed 3–13–01; 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: April 24–25, 2001.

Time: 8 a.m. to 5 p.m..

Agenda: To review and evaluate grant applications.

Place: Holiday Inn–Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

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) 435–8884.

(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: March 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–6263 Filed 3–13–01; 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 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 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: March 22, 2001.

Time: 10 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892.

Contact Person: Martha Ann Carey, Ph.D., RN, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608, 301–443–1606.

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 Mental Health Special Emphasis Panel.

Date: March 30, 2001.

Time: 10 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892.

Contact Person: Martha Ann Carey, Ph.D., RN, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608, 301–443–1606.

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. 93.242, 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: March 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–6264 Filed 3–13–01; 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: March 19, 2001.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Henry J. Haigler, Ph.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301/443–7216.

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. 93.242, 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: March 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–6265 Filed 3–13–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney 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 provisons 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–C M1.

Date: April 3, 2001.

Time: 1 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: 6707 Democracy Boulevard, 2 Democracy Plaza, Rm 649, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dan E. Matsumoto, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 649, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8894.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 7, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–6267 Filed 3–13–01; 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.

Date: March 29, 2001.

Time: 10:00 AM to 12:30 PM.

Agenda: To review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892.

Contact Person: Robert C. Goldman, Ph.D., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301 496–8424, rg159w@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. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 7, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–6268 Filed 3–13–01; 8:45 am]

BILLING CODE 4040–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: May 20, 2001.

Open: 2 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd., Suite 400C, Bethesda, MD 20852.

Contact Person: Stanley C. Oaks, Jr., Ph.D., Scientific Review Branch, Division of Extramural Research, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892–7180, 301–496–8683.

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. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: March 7, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–6269 Filed 3–13–01; 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.

Date: April 9–11, 2001.

Time: April 9, 2001, 8 a.m. to adjournment on April 11, 2001.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Nancy B. Saunders, Ph.D., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550, ns120v@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: March 7, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–6270 Filed 3–13–01; 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 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: Center for Scientific Review Special Emphasis Panel.

Date: March 16, 2001.

Time: 8:30 AM to 6:00 PM.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.

Contact Person: Calbert A. Laing, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4210,

MSC 7812, Bethesda, MD 20892, 301–435–1221, laingc@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 16, 2001.
Time: 2:30 PM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Camilla E. Day, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, MSC 7890, Bethesda, MD 20892, (301) 435–1037, dayc@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 19, 2001.
Time: 2:00 PM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Jerry L. Klein, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7804, Bethesda, MD 20892, (301) 435–1213.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 21, 2001.
Time: 8:30 AM to 5:30 PM.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Mary Clare Walker, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 21, 2001.
Time: 11:00 AM to 12:00 PM.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Mary Clare Walker, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 21, 2001.
Time: 1:00 PM to 2:00 PM.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Mary Clare Walker, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 22, 2001.
Time: 8:30 AM to 5:30 PM.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Mary Clare Walker, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 22, 2001.
Time: 2:00 PM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Mary Clare Walker, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 22, 2001.
Time: 3:00 PM to 3:30 PM.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Mary Clare Walker, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 22, 2001.
Time: 12:15 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: Victor A. Fung, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7804, Bethesda, MD 20892, (301 435–3504, fungv@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 23, 2001.
Time: 8:30 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892.
Contact Person: March Clare Walker, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

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.

Center for Scientific Review Special Emphasis Panel

Name of Committee:
Date: March 26, 2001
Time: 10 a.m. to 10:30 a.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1786

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 26, 2001.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jean Hickman, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7808, Bethesda, MD 20892, (301) 435–1146.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 28, 2001.
Time: 8:30 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Governor's House Hotel, 17th & Rhode Island Avenue, NW, Washington, DC 20036.
Contact Person: John Bishop, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 28, 2001.
Time: 11 a.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Jay Cinque, MSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, (301) 435–1252.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 29, 2001.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications and/or proposals.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Jean Hickman, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7808, Bethesda, MD 20892, (301) 435–1146.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 29, 2001.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Sally Ann Amero, Ph.D., Scientific Review Administrator, Center for Scientific Review, Genetic Sciences Integrated Review Group, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC7890, Bethesda, MD 20892–7890, (301 435–1159, ameros@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel
Date: March 29, 2001.
Time: 3 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Paul K. Strudler, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

Name of Committee: Center for Scientific Review special Emphasis Panel.
Date: March 30, 2001.
Time: 10 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007,
Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 30, 2001.
Time: 11:30 a.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Michael Knecht, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046.
(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: March 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–6261 Filed 3–13–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2001 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of FY 2001 funds for cooperative agreements for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA), including Part I, Community Initiated Prevention Intervention, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. funds FY 2001	Est. number of awards	Project period (years)
Community-Initiated Prevention Intervention	April 26, 2001	$8,000,000	19–25	3

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2001 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov*

When requesting an application kit, the applicant must specify the particular

activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of Fiscal Year 2001 funds for cooperative agreements to implement Community-Initiated Prevention Interventions. The goal of this program is to determine how effective the selected prevention intervention model is in preventing, delaying and/or reducing substance use and substance abuse related problems.

Eligibility: Units of State and local or Indian tribal governments, and domestic private non profit organizations may apply. This can include: Community-based organizations, managed care and other health care delivery systems, universities and colleges, faith-based organizations, tribal organizations, and other organizations.

Availability of Funds: Approximately $8 million will be available of which $2 million is allocated for fetal alcohol syndrome/alcohol related birth disorders (FAS/ARBD) awards and $6 million for all other awards. Approximately 4–5 awards will be made for FAS/ARBD projects averaging $400,000 to $500,000 per year in total costs (direct and indirect). Approximately 15–20 awards will be made for all other intervention projects averaging $300,000 to $400,000 per year in total costs (direct and indirect). Actual funding levels will depend on the availability of funds. These funds may be used to pay for the local intervention services (if other funds are not available), evaluation design and implementation, data collection and analysis, and preparation of the project reports and intervention implementation manuals for others to use for replication.

Period of Support: Awards may be requested for up to 3 years. Annual continuation awards depend on the availability of funds and progress achieved by grantees.

Criteria for Review and Funding: General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process.

Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.230.

Program Contact: For questions concerning program issues, contact: Soledad Sambrano, Ph.D., or Pamela Roddy, Ph.D., Division of Knowledge Development and Evaluation, Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration, Rockwall II, Suite 1075, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9110, E-Mail *ssambran@samhsa.gov* *proddy@samhsa.gov*.

For questions regarding grants management issues, contact: Edna Frazier, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, Rockwall II, 6th Floor, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6816, E-Mail: *efrazier@samhsa.gov*.

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2001 activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2001 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 9, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–6368 Filed 3–13–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2001 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Treatment (CSAT) announces the availability of FY 2001 funds for cooperative agreements for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA), including Part I, Cooperative Agreements for the Development of Comprehensive Drug and Alcohol Treatment Systems for Homeless Persons, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. funds FY 2001 (million	Est. No. of awards	Project period (years)
Development of Comprehensive Drug and Alcohol Treatment Systems for Homeless Persons.	May 10, 2001 ...	$9.5	18–20	3

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2001 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Clearinghouse for Alcohol and Drug Information (NCADI), PO Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: http://www.samhsa.gov

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT) announces the availability of Fiscal Year 2001 funds for cooperative agreements to enable communities to expand and strengthen their drug and alcohol treatment systems for homeless individuals with substance abuse disorders or with co-occurring substance abuse and mental disorders.

Eligibility: Public and domestic private non-profit entities may apply. For example, the following are eligible to apply: States; Tribal or local governments; community-based organizations; faith based organizations. If the applicant is not a direct provider of substance abuse treatment services, the applicant must document a commitment from a substance abuse treatment provider to participate in the proposed project. The applicant agency and all direct providers of substance abuse services involved in the proposed system *must* be in compliance with all local, city, county and/or State requirements for licensing, accreditation, or certification. The applicant, if a direct provider of substance abuse treatment services, and any direct providers of substance abuse treatment services involved in proposed system, *must* have been providing treatment services for a minimum of two years prior to the date of this application.

Availability of Funds: Approximately $9.5 million will be available to fund 18 to 20 cooperative agreements. The average award is expected to range from $400,000 to $600,000 per year in total costs (direct and indirect). Annual awards will be made subject to continued availability of funds to SAMHSA/CSAT and progress achieved by the grantee.

Period of Support: Cooperative Agreements will be awarded for a period of up to 3 years.

Criteria for Review and Funding: General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria.

Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.230.

Program Contact: For questions concerning program issues, contact: James M. Herrell, Ph.D., CSAT/SAMHSA, Rockwall II, 7th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2376, E-Mail: jherrell@samhsa.gov.

For questions regarding grants management issues, contact: Kathleen Sample, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9667, E-Mail: ksample@samhsa.gov.

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be

affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2001 activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2001 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 8, 2001.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–6319 Filed 3–13–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2001 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of Funding Availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Treatment (CSAT) announces the availability of FY 2001 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA), including Part I, Recovery Community Organization Development and Community Mobilization Program, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. funds FY 2001	Est. no. of awards	Project period
Recovery Community Organization Development and Community Mobilization Program:	May 16, 2001.			
Track 1		$2 million	11	5 years
Track 2		$2 million	8	3 years

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2001 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: http://www.samhsa.gov

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT) announces the availability of Fiscal Year 2001 funds for grants to foster the participation of people in recovery, their family members, and other allies (the recovery community) in the public dialogue about addiction, treatment, and recovery, and to build their capacity to identify, develop, and support treatment

and recovery policies, systems, and services that meet their needs as they define them. Funded projects will encourage and facilitate participation by people in recovery and their family members in the planning, design, delivery, and evaluation of addiction treatment and recovery policies, systems, and services at the local, State, regional, and national levels. They will also promote linkages among recovery community members, and between the recovery community and service delivery systems. In addition, they will develop and conduct public education to help reduce the stigma associated with addiction, treatment, and recovery.

Applications for two separate Tracks will be funded under this Guidance for Applicants (GFA). Track I solicits applications from newly-formed or newly-forming recovery community organizations or facilitating organizations. Track II is designed to enable existing recovery community organizations and facilitating organizations that have demonstrated their capacity in recovery community organizing to expand or intensify their current program, or to replicate their promising program model in another setting.

Eligibility: Applicants may be domestic private nonprofit organizations, such as community-based organizations, universities, faith-based organizations, or units of State or local governments. Consortia comprised of various types of eligible organizations are permitted; however, a single organization representing the consortium must be the applicant, the recipient of any award, and the entity responsible for administering the grant. Organizations that were funded, either directly or indirectly under the 1998 RCSP GFA are not eligible to apply for Track I awards.

Availability of Funds: Approximately $2,000,000 will be available to fund up to 11 grants in Track I. The average award for a Track I grant is expected to range from $175,000 to $200,000 per year in total costs (direct and indirect). Approximately $2,000,000 will be available to fund up to 8 grants in Track II. The average award for a Track II grant is expected to range from $225,000 to $275,000 per year in total costs (direct and indirect).

Period of Support: Track I grants will be awarded for a period of 5 years. Track II grants will be awarded for a period of 3 years.

Criteria for Review and Funding: General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.230.

Program Contact: For questions concerning program issues, contact: Catherine D. Nugent, Division of State and Community Assistance, CSAT/SAMHSA, Rockwall II, Suite 880, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2662, E-Mail: *cnugent@samhsa.gov.*

For questions regarding grants management issues, contact: Kathleen Sample, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th Floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9667, E-mail: *ksample@samhsa.gov.*

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2001 activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2001 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 8, 2001.

Richard Kopanda,

Executive Officer, Substance Abuse and mental health Services Administration.

[FR Doc. 01–6313 Filed 3–13–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2001 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Treatment (CSAT) announces the availability of FY 2001 funds for cooperative agreements for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA), including Part I, Cooperative Agreements for Strengthening Comprehensive Substance Abuse Treatment Systems for Racial/Ethnic Minority Communities, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application Deadline	Est. Funds FY 2001 (million)	Est. Number of Awards	Project Period (years)
Strengthening Minority Communities	May 21, 2001	$2.5	5–8	3

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2001 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: http://www.samhsa.gov.

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT) announces the availability of Fiscal Year 2001 funds for cooperative agreements to encourage minority communities to strengthen and enhance their substance abuse treatment system for adult racial/ethnic minority populations. The goals of this program are to support communities in their development of systems linkages and infrastructure leading to organizational coalitions to improve the quality, effectiveness, and efficiency of services to/in minority communities and to reduce disparities in access to care.

Eligibility: Public and domestic private non-profit entities can apply. For example, the following are eligible to apply: States; Tribal or local governments; community-based organizations; and faith-based organizations. The applicant agency and all direct providers of substance abuse treatment services involved in the proposed system of care must be in compliance with all local, city, county and/or State licensing and/or accreditation/certification requirements. The applicant agency, if providing substance abuse treatment services directly, and any direct providers of substance abuse treatment services involved in the proposed system of care, must have been providing substance abuse treatment services for a minimum of two years prior to the date of the application.

Availability of Funds: Approximately $2.5 million will be available to fund 5 to 8 cooperative agreements. The average award is expected to range from $300,000 to $600,000 per year in total costs (direct and indirect). Annual awards will be made subject to continued availability of funds to SAMHSA/CSAT and progress achieved by the grantee.

Period of Support: Grants will be awarded for a period of up to 3 years.

Criteria for Review and Funding: General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.230.

Program Contact: For questions concerning program issues, contact: Ali Manwar, Ph.D., CSAT/SAMHSA, Rockwall II, 7th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–0816, E-Mail: amanwar@samhsa.gov.

For questions regarding grants management issues, contact: Kathleen Sample, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9667. E-Mail: ksample@samhsa.gov.

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This

PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2001 activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2001 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 8, 2001.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–6314 Filed 3–13–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2001 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of Funding Availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Treatment (CSAT) announces the availability of FY 2001 funds for cooperative agreements for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA), including Part I, Cooperative Agreements for Strengthening Communities in the Development of Comprehensive Drug and Alcohol Treatment Systems for Youth, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application Deadline	Est. Funds FY 2001 (million)	Est. Number of Awards	Project Period (years)
Strengthening Communities in Development of Comprehensive Drug and Alcohol Treatment Systems for Youth.	May 21, 2001	$2.5	3–5	5

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2001 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: http://www.samhsa.gov.

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT) announces the availability of Fiscal Year 2001 funds for cooperative agreements to encourage communities to strengthen their drug and alcohol identification, referral and treatment systems for youth. The goal of this cooperative agreement program is to assist communities in their efforts to address drug and alcohol problems among youth where there is a lack of a treatment system, infrastructure, and continuum of care to effectively intervene with the drug using youth

population. There are six mandatory objectives that must be met as part of this cooperative agreement.

Eligibility: Public and domestic private non-profit entities such as units of State and local governments; Native Alaskan entities, Indian tribes and tribal organizations; and community-based organizations, including faith based organizations. The applicant agency and all direct providers of substance abuse treatment services involved in the proposed system of care must be in compliance with all local, city, county and/or State licensing and/or accreditation/certification requirements. The applicant agency, if providing substance abuse treatment services directly, and any direct providers of substance abuse treatment services involved in the proposed system of care, must have been providing substance abuse treatment services for a minimum of two years prior to the date of the application.

Availability of Funds: Approximately $2.5 million will be available to fund 3 to 5 cooperative agreements. The average award is expected to range from $500,000 to $750,000 per year in total costs (direct and indirect). Annual awards will be made subject to continued availability of funds to SAMHSA/CSAT and progress achieved by the grantee.

Period of Support: Cooperative Agreements will be awarded for a period of up to 5 years.

Criteria for Review and Funding:

General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.230.

Program Contact: For questions concerning program issues, contact: Randolph Muck, M.Ed., CSAT/SAMHSA, Rockwall II, 7th Floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6574, E-Mail: rmuck@samhsa.gov.

For questions regarding grants management issues, contact: Kathleen Sample, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9667, E-Mail: ksample@samhsa.gov.

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2001 activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2001 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 8, 2001.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–6315 Filed 3–13–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of Interim Strategy on Section 7 Consultations Under the Endangered Species Act for Watercraft Access Projects in Florida That May Indirectly Affect the West Indian Manatee

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: We, the Fish and Wildlife Service, announce the availability of an interim strategy to comply with the provisions of the Endangered Species Act of 1973, as amended (ESA), on actions resulting in increased watercraft access in Florida. This document reflects the Service's findings on the conditions under which the Service could determine that a proposed watercraft access facility is unlikely to have adverse indirect effects on manatees as well as the measures that an individual seeking permission to build a watercraft access facility could take to reduce indirect effects on

manatees to an unlikely to occur level. These conditions and measures were developed using the best scientific and commercial data available. Section 7 consultation also requires that the Service make determinations on the effect of a Federal action based on the "best scientific and commercial data available." Thus, during the time this guidance is available for public comment, the Service will continue to fulfill its section 7 consultation responsibilities based on the principles stated in this guidance. These principles may change as information is received through the public comment process, if new or more detailed information is brought to the attention of the Service.

This interim strategy represents the Service's guidance to all persons, including individuals, local governments, State agencies, and Federal agencies regarding voluntary conservation measures that could be incorporated into watercraft access facility designs such that, in some cases projects would not likely cause incidental take of the West Indian manatee (*Trichechus manatus*). Watercraft access facilities including slips, ramps, launches, dry storage facilities, docks, moorings, marina developments, and similar structures will be evaluated on a case-by-case basis to determine whether, in any particular situation, the proposed project is likely to adversely affect manatees or, rather, whether specific conditions in the project area as well as measures incorporated into the project's design are such that the Service can reasonably conclude that the project is not likely to adversely affect manatees. We have called this strategy an "interim" strategy because it is designed to provide guidance relating to the indirect effects of watercraft access development on manatees only during the time period while incidental take regulations under the Marine Mammal Protection Act (MMPA) are being promulgated.

Using this guidance, the individuals, local governments, State agencies, and Federal agencies may develop acceptable manatee conservation measures which are then reviewed by the Service for compliance with the provisions of the ESA. The Service believes that, during this interim period, some watercraft access projects can be designed so that there is no increased likelihood of manatee mortalities and injuries as a result of collisions with watercraft.

This guidance document does not authorize incidental take of manatees. Incidental take of manatees without authorization is unlawful and such authorization cannot occur until the Service issues appropriate regulations under the MMPA. In addition, this guidance document does not describe all procedures and standards that will be followed during formal and informal consultation. All determinations made during informal and formal consultation will be made in accordance with the ESA, and the Service's March 1998 Endangered Species Consultation Handbook.

It is also important to stress that this guidance document does not address all of the ways in which a watercraft access project could have indirect effects which constitute an incidental take of manatees as defined by the ESA and MMPA. Instead, this guidance document focuses on one particular form of potential incidental take, i.e., the increased likelihood of manatee mortalities and injuries as a result of collisions with watercraft. In determining whether to concur with a not likely to adversely affect determination, or in issuing a biological opinion addressing the potential for incidental take, the Service must consider all potential forms of incidental take, including whether the direct or indirect effects of the project would be likely to "harass" or "harm" manatees as defined by the ESA and its implementing regulations.

DATES: We must receive your comments regarding this strategic guidance on or before May 14, 2001.

ADDRESSES: Submit written comments to the Field Supervisor, South Florida Ecological Services Office, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, Florida 32961–2676 or via electronic mail to verobeach@fws.gov. Comments and materials received in response to this proposal will be available for public inspection at this address during normal working hours from 8 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Marilyn Stoll, South Florida Ecological Services Office, P.O. Box 2676, Vero Beach, Florida 32961–2676, Telephone: (561) 562–3909 extension 229, Facsimile: (561) 562–4288, or Electronic Mail: verobeach@fws.gov.

SUPPLEMENTARY INFORMATION:

Purpose

This document reflects the Service's findings on the conditions under which the Service could conclude that a proposed watercraft access facility is unlikely to cause a "take" of manatees, as defined in the Endangered Species Act § 3(18) and 50 CFR 17.3, as well as the measures that an individual seeking permission to build a watercraft access facility could incorporate into the design of a project in order to reduce the likelihood of incidental take to a level of not likely to occur. These conditions and measures were developed using the best scientific and commercial data available. Because section 7 consultation also requires the Service to make determinations on the effect of a Federal action based on the best scientific and commercial data available, the Service will use the guidelines described in this document to fulfill its section 7 consultation responsibilities during the time this guidance is available for public comment. These guidelines may change as information is received through the public comment process, if new or more detailed information is brought to the attention of the Service.

Background

The West Indian manatee (*Trichechus manatus*) was first provided Federal protection in 1967 through its listing as an endangered species under the Endangered Species Preservation Act of 1966. The manatee continued to be listed as an endangered species under the Endangered Species Conservation Act of 1969 and the Endangered Species Act of 1973, as amended (ESA). Additional Federal protection was provided through the Marine Mammal Protection Act (MMPA) of 1972.

Watercraft-related manatee mortality and increasing mortality trends have been documented since collection of manatee mortality data began in 1974. The addition of new watercraft into Florida's waters has the potential to adversely affect manatees. The Service is presently preparing MMPA regulations regarding the circumstances under which the incidental take of manatees associated with watercraft access facilities may be authorized. The principle purpose of this guidance document is to provide assistance in determining appropriate measures for eliminating any project-related adverse effects from watercraft collisions to manatees, and to guide the Service in evaluating requests for letters of concurrence, requests for initiation of consultation, and during formal consultation to identify measures which eliminate the risk of incidental take of manatees. More specifically, one purpose of this guidance document is to set forth the conditions under which the Service could make a determination that incidental take, as a result of watercraft collisions, is unlikely to occur so that particular project could proceed prior to the issuance of MMPA rules. Watercraft access facilities are defined as marinas, ramps, launches, slips, docks, dry

storage facilities, moorings, and similar structures.

Under section 7 of the ESA and its implementing regulations, if a Federal action agency determines that a project is not likely to adversely affect a listed species, the action agency must obtain the Service's written concurrence regarding that determination [see 50 CFR 402.14(b)]. If a Federal action agency makes an initial determination that a proposed project is likely to adversely affect manatees, the action agency must request the Service to initiate formal consultation unless the Service and the action agency subsequently agree during informal consultation that the project is not likely to have any adverse effects on manatees. Once formal consultation is initiated, except as provided for in 50 CFR 402.14(l), the Service must render a biological opinion on whether the Federal action is likely to jeopardize any listed species or is likely to adversely modify designated critical habitat. In addition, the Service must anticipate any incidental take that may occur as a result of the action. If the Service does not anticipate that the action will result in incidental take, then the Service must make a clear statement to that effect in the biological opinion. If the Service does anticipate that incidental take may occur as a result of the action, it must determine whether that incidental take is likely to jeopardize the continued existence of the species. If not, then the Service must exempt such incidental take, provided the incidental take is otherwise lawful. Because all marine mammals are also protected by the MMPA, the Service cannot exempt incidental take for manatees under ESA, unless incidental take regulations are promulgated under MMPA. For the Service to promulgate incidental take regulations under the MMPA, an entity must request that the Service prepare incidental take regulations under the MMPA. For such projects which the Service determines will not result in jeopardy or adverse modification of critical habitat, yet in the Service's opinion is likely to result in the incidental take of manatees, the Service intends to exercise its authority under the ESA to issue biological opinions that make clear that the project may contribute to incidental take of manatees, and incidental take may not be exempted in the absence of MMPA incidental take regulations.

Direct effects of watercraft access facilities on manatees and essential features of manatee habitat (such as seagrasses), including those arising from the location, design, and construction of facilities, and dredging and filling, will be addressed at the time of the Service's review of the permit application and are not the focus of this interim strategy. In analyzing such effects, including those on seagrasses and other important features of manatee habitat, we will analyze the extent to which such effects are addressed by local Manatee Protection Plans, State review, and other protective conservation measures, such as standard construction precautions to protect manatees during construction. Standard construction conditions have been used throughout the range of the manatee for more than a decade and have proven to reduce the effects to manatees within the facility footprint.

This interim strategy is not designed as a means to allow projects to circumvent formal consultation under section 7 of the ESA, which is required whenever a project is likely to adversely affect a federally-listed species or its critical habitat. We recognize that, in some cases, the incorporation of conservation measures into project designs will not reduce the potential for indirect effects to an unlikely to occur level. For example, conservation measures as described in this document may not be enough to reduce incidental take of manatees to an unlikely to occur level in a case where a new watercraft access project is proposed in an area that supports large concentrations of manatees which is already experiencing high watercraft-related manatee injury and mortality. However, we believe that in some cases, because of conditions in a particular area and because of conservation measures incorporated into a project's design, the Service will be able to determine that incidental take is not likely to occur.

The Service believes that increased manatee speed zone enforcement is the primary conservation measure through which proposed projects could reduce the incidental take associated with watercraft collisions to an unlikely to occur level. We believe that in some areas additional law enforcement can be increased to a level which would ensure that an increase in watercraft traffic from a proposed facility will not likely result in incidental take of manatees due to watercraft collisions. Additionally, this increase in law enforcement would provide added benefits to the manatees by ensuring that those watercraft already on the water would also obey the speed zones currently in place. In some situations and locations, other conservation measures besides increased law enforcement may possibly be employed to address the indirect effects of watercraft access projects on manatees. Such other methods could include designating manatee speed zones, improving the signage of existing speed zones, providing law enforcement equipment, or other measures committed to in an agreement or plan that the Federal action agency and the Service believe reduces the potential for incidental take from increased watercraft traffic to an unlikely to occur level. In order for the Service to determine that any such measure is sufficient to reduce the likelihood of incidental take associated with the project, the Service must first find that: (1) Adequate speed zones exist in the areas reasonably anticipated to have increased watercraft traffic as a result of the project; (2) signage in these areas is adequate to ensure that boaters are aware of the speed zones; (3) speed zone enforcement in these areas is, or with project conservation measures will be, sufficient to prevent watercraft collisions from occurring as a result of the project; and (4) these measures must be in place prior to project implementation.

We believe that the conditions and conservation measures addressed in this interim strategy are essential to ensuring that new watercraft access projects do not result in additional watercraft-related mortality or injury to manatees. However, they are only part of the total recovery needs of the manatee. Numerous conservation activities are ongoing to recover the manatee, such as implementation of the recovery plan and any subsequent modifications, development of incidental take regulations under the MMPA, review of federally-designated manatee sanctuaries and refuges, adjustment of speed zone locations, assessment of deregulation of power plants as warm water refugia, and assessment of the effectiveness of law enforcement and public awareness efforts in decreasing or eliminating watercraft-related manatee mortality.

None of these activities alone can address the multiple actions necessary to recover the species. This interim strategy is a very important component of the overall recovery effort, but is designed to be in place only during the time prior to implementation of comprehensive incidental take regulations promulgated under the MMPA. Recovery of the manatee in Florida depends on numerous factors. We recognize that many of these factors (e.g., red tide events) are difficult, if not impossible, to control. Other factors related to recovery will take many partners and years to address. Watercraft mortality is the most significant factor that we can effectively address at this time to aid in manatee recovery.

Recent research indicates that improving adult survival is the most effective way to ensure the long-term survival of the manatee. Since the Florida Fish and Wildlife Conservation Commission (formerly the Florida Department of Environmental Protection) began a carcass recovery program in 1974, about one-third of the documented manatee mortality has been human-related, and watercraft-related mortalities account for about 80 percent of this total. In Florida in 1999, there were 268 documented manatee deaths of which 82 were watercraft-related, the highest number of watercraft-related mortalities recorded for a single year. In addition, a high proportion of the existing manatee population is scarred from one or more collisions with watercraft.

Speed Zone Enforcement and Boater Compliance

With more than 830,000 vessels registered by the State of Florida and an estimated 400,000 out-of-state vessels, more than one million watercraft use Florida's waterways annually, and the popularity of watercraft recreation continues to grow. While every new watercraft access facility may not directly equate to a watercraft added to the water, cumulatively, the addition of watercraft access points results in increased watercraft use and, in some cases, changes in watercraft travel patterns and modification of manatee behavior.

Watercraft speed zones were established in some coastal Florida counties with high manatee-watercraft collision rates to slow watercraft to reduce collisions. When manatees detect the presence of an oncoming watercraft, they dive and/or swim rapidly to try to get out of its path. Their ability to effectively elude the oncoming watercraft is largely determined by the speed of the approaching watercraft. Given ample time, manatees are able to avoid lethal or injurious encounters with watercraft. Therefore, slow-moving watercraft are less of a threat to manatees.

To date, several compliance studies have been conducted to measure the extent to which boaters comply with manatee protection zones (Gorzelany 1996, Gorzelany 1998, Kinnaird 1983, Morris 1994, Tyson 1999). These studies were conducted in Brevard, Lee, and Sarasota counties and demonstrated compliance rates ranging from 50.9 percent to 78.65 percent within the study areas. Three of the studies concluded that the presence of law enforcement officers on the water during the sampling period increased levels of compliance. The fourth researcher concluded that low levels of enforcement, few citations issued, and poor signage were responsible for poor compliance (Morris 1994). Gorzelany (1996) demonstrated that areas with a frequent enforcement presence had the highest level of boater compliance. Tyson (1999) concluded that compliance was best when law enforcement officers were on the water and that consistent law enforcement presence will result in consistent compliance.

In many areas, watercraft operator compliance with speed zones is currently inadequate to prevent manatee injuries and deaths. Compliance may be inadequate due to insufficient signs in the speed zone or insufficient enforcement of the speed within the zone. In other areas, speed zones have not yet been established. From 1997 through 1999, Service law enforcement operations resulted in more than 1,348 watercraft speed zone citations over 18 weekends, demonstrating the need for increased speed zone awareness and compliance. With regard to some projects, we believe that increased enforcement in the area likely to be affected by watercraft associated with the project should reduce to an unlikely to occur level any potential manatee incidental take that would result from speed zone violations by boaters using that facility. We also believe that, in some areas, means other than increasing law enforcement hours on the water may be sufficient to reduce to an unlikely to occur level any potential incidental take of manatees due to collisions with watercraft. For example, when speed zones are adopted and are adequately enforced, other factors such as the lack of specific equipment, training, etc., may impede law enforcement efforts and efficiency to the extent that there is still a high potential for manatee incidental take resulting from the increased watercraft traffic associated with the project.

Interim Strategy

This interim strategy applies to any new watercraft access activity that could result in adverse effects on manatees. Specific manatee conservation measures proposed as part of a project must be found to reduce to an unlikely to occur level any adverse effects associated with increased access. Specific conservation measures proposed for any project must be based on a biological evaluation submitted by the applicant or the action agency. This biological evaluation must include a description of the proposed action; a description of manatee habitat and any manatee critical habitat affected by the proposed action; a thorough analysis of the effects of the proposed action on manatees, manatee habitat, and manatee critical habitat. From this biological evaluation, individuals, local governments, State agencies, and Federal agencies can develop acceptable manatee conservation measures(s). Once the measures have been developed, the Service can review and provide additional advice as necessary to ensure that the proposed project will reduce the potential for watercraft collisions to an unlikely to occur level. The action agency will provide a copy of these guidelines to the applicant for use in designing their proposed action to comply with the provisions of the ESA. The action agency will provide a letter to the Service with a complete project description, including any conservation measures, and request that the Service review the proposed action for compliance with the ESA. The specific conservation measures necessary in any given situation will vary.

Because necessary conservation measures will vary according to mortality risk in the area of the proposed project, the Service delineated relative risk areas throughout Florida. We assessed regional manatee populations, manatee ecology, and historic watercraft-related manatee mortality to determine relative risk of watercraft-related manatee losses, and identified eight risk regions. We examined manatee mortality data from 1974 through 2000, including five-year mortality increments and watercraft-related mortality trends, to determine high, medium and low risk areas (Table 1).

We defined high risk areas as those averaging one or more watercraft-related manatee mortalities per year during the past ten years; medium risk areas averaged less than one, but more than zero, watercraft-related manatee mortality per year; and low risk (the remainder of the manatee's range in the southeastern U.S.) had no documented watercraft-related mortality.

The Service believes that watercraft access developments in high risk areas should incorporate measures for increased enforcement of watercraft speed zones designated for manatee protection. Generally, the increased enforcement should be in the form of providing for increased hours of enforcement officer presence on the water. For example, an applicant could provide for enforcement hours if there are adequate speed zones with the appropriate signage. In some limited cases, where the Service finds, based on the best scientific and commercial data available, that factors other than hours

on the water limit the effectiveness of enforcement agencies, alternate means of increasing enforcement might be acceptable as conservation measures. Such alternatives might include providing to a law enforcement entity equipment that is needed to increase manatee law enforcement efforts (e.g., watercraft, signs), or providing to law enforcement officials training which includes manatee biology, management, laws, regulations, techniques, and problem solving. As an example, an applicant could, in cooperation with the appropriate entities, identify the locations of manatee speed zones and have them posted with the appropriate signage, if the level of law enforcement is adequate. Applicants have the option to provide these conservation measures through an agreement with a law enforcement entity or through contributions to a conservation fund. In some cases in high risk areas, an applicant may choose to also include an education or outreach component as a conservation measure, in addition to increased enforcement, but education will not be sufficient to replace enforcement as a conservation measure.

TABLE 1.—HIGH, MEDIUM, AND LOW RISK AREAS BY COUNTY IN FLORIDA

High risk area (contribution = 1.65 hours)		Medium risk area (contribution = 0.165 hour)		Low risk area (no contribution required)	
Subpopulation	County	Subpopulation	County	Subpopulation	County
Atlantic	Duval *	Upper St. Johns	St. Johns *	Atlantic	Monroe **
	Clay *		Putnam		Okeechobee
	St. Johns *		Lake	Southwest	DeSoto
	Volusia *		Seminole	Northwest	Jefferson
	Brevard		Volusia *		Franklin
	Indian River	Atlantic	Nassau		Gulf
	Martin		Clay *		Bay
	Palm Beach		Flagler		Walton
	Broward		St. Lucie		Okaloosa
	Miami-Dade	Southwest	Glades		Santa Rosa
	Monroe **		Hendry		Escambia
Southwest	Collier		Pinellas		
	Lee	Northwest	Pasco		
	Charlotte		Hernando		
	Sarasota		Levy		
	Manatee		Dixie		
	Hillsborough		Taylor		
Northwest	Citrus		Wakulla		

* In Northeast Florida, the portions of the St. Johns River north (downstream) of a line drawn across the river at the Shands Bridge (State Route 16) in St. Johns County are included with the high risk area of Duval County. The J. Turner Butler (Sollee) Bridge (State Route 202) across the Atlantic Intracoastal Waterway in southeast Duval County is the demarcation between the high risk area to the north of the bridge and the medium risk area to the south. The Nassau River and its tributaries in Duval County are medium risk areas. The coastal waterways of Volusia County (including the Tomoka River) are in the high risk category, and the St. Johns River in Volusia, Lake and Seminole Counties are in the medium risk category.

** The area in Monroe County to the east and north of the Seven Mile Bridge is considered a high risk region for manatees; whereas the area west and south of the Seven Mile Bridge is considered a low risk region for manatees.

In some medium risk counties, manatee mortality trends have been increasing and the Service believes that increasing enforcement hours on the water will be the most appropriate conservation measure. In other medium risk counties where mortality is low and is not increasing, law enforcement may be increased and/or alternate conservation measures may be used as deemed appropriate, based on the best scientific and commercial data available, to reduce incidental take to an unlikely to occur level.

For all projects in high and medium risk counties, the Service will evaluate the specific conditions in the area expected to be affected by the project as well as the conservation measures incorporated into the project's design, in determining whether the project is likely to contribute to incidental take due to watercraft collisions. The basic prerequisites to determining that incidental take from watercraft collisions is unlikely to occur as a result of any particular project are that: (1) Adequate speed zones exist in the areas reasonably anticipated to have increased watercraft traffic as a result of the project; (2) signage in these areas is adequate to ensure that boaters are aware of the speed zones; (3) speed zone enforcement in these areas is, or with project conservation measures will be, sufficient to prevent watercraft collisions from occurring as a result of the project; and (4) these measures must be in place or will be in place prior to project implementation. If, for whatever reason, any of these conditions are not, or cannot be, satisfied in a particular area, then the Service cannot conclude that a project is not likely to adversely affect manatees. The Service will advise the Federal agency and applicants as to the conservation measures which the Service deems appropriate based on the relative risks of manatee mortalities and injuries in the particular area where the project is located.

With respect to single family docks as an interim measure only, the Service, based on the best scientific and commercial data available, may find that a financial contribution from any applicant to an organization or entity that participates in and/or funds manatee conservation actions is consistent with the principles in these guidelines. In unusual situations—such as where the Federal agency advises the Service that many project applications for single family docks are pending in an area of particular importance to manatees, or in an area that is already experiencing very high mortality—the Service may conclude that a financial contribution is not sufficient to render a watercraft access facility for these types of permit applications unlikely to contribute to the incidental take of manatees.

Implementation of Conservation Measures

In order to effectively address adverse effects to manatees, the Service believes that conservation measures should be built into the project description and be implemented within the area which the

Service believes, based on the best scientific and commercial data available, is likely to be affected by the proposed watercraft access project. Currently, the Service has not identified a specific distance from the project as the area likely to be affected. This is because site-specific circumstances, such as watercraft traffic patterns and manatee travel patterns will dictate the affected area from watercraft in each case. Incorporation of conservation measures into a project design can be accomplished by having a signed agreement with an entity that has the authority to provide law enforcement, providing funds for law enforcement to an entity that has manatee conservation as a goal, or identifying and implementing an activity that would accomplish the goal of this guidance, i.e., ensuring that the conditions in an area are such that the project does not contribute to the incidental take of manatees through watercraft collisions. In any of these cases, the action agency and/or applicants may develop site-specific enforcement plans, including entering into enforcement agreements, facilitating enforcement events, or contracting that activity through a conservation fund entity. Agents involved in enforcement actions must be authorized to enforce all local, State, and Federal laws, including speed zone restrictions, necessary for the protection of manatees.

For commercial watercraft access projects and multi-family facilities, contributions should be made and on-the-water enforcement ensured prior to new watercraft being added to the aquatic environment. These enforcement activities will be directed at the appropriate location to ensure that the impacts of the project are not likely to adversely affect the manatee by increasing the risk of mortalities and injuries through watercraft collisions. Generally, these types of complex projects require more time to resolve resource conflicts and to finalize construction than simpler projects such as single family docks. Permit applicants for commercial and multi-family watercraft access projects may also have access to expertise to complete individual agreements with law enforcement entities. Therefore, enforcement efforts around larger facilities may be more readily accomplished and monitored prior to the time construction is finalized and new watercraft are added to manatee habitat.

If a project is implemented in a manner that is not consistent with the project as consulted on, because conservation measures are not adopted and implemented as proposed, the action agency will reinitiate consultation, in accordance with the Service's Consultation Handbook, to ascertain whether additional conservation measures should be incorporated into the project. Furthermore, failure to implement a project as reviewed and approved by the action agency and the Service, to avoid any incidental take resulting from the project, may subject the permittee to liability pursuant to the underlying statutes. Based on conversations with the Corps, it is the Service's understanding that the Corps will suspend or revoke permits where applicants have implemented projects in a manner that is inconsistent with the project as consulted on with the Service.

Establishing an Agreement Directly With a Law Enforcement Entity

If an applicant elects to establish an agreement or contract directly with an entity that can provide law enforcement, the agreement or contract must be completed before the Service makes a final determination on the proposed project. The entity that provides the law enforcement personnel must be able to provide personnel certified to enforce all local, State, and Federal laws, including speed zone restrictions, necessary for the protection of manatees. Specific details included in the agreement or contract must be based on a biological evaluation which includes a description of the proposed action, manatee habitat, and manatee critical habitat affected by the proposed action; a thorough analysis of effects of the proposed action on manatees, manatee habitat, and manatee critical habitat; and a detailed and thorough description of the proposed manatee conservation measure(s). The agreement or contract must describe how the funding/in-kind resources will be utilized by the law enforcement entity (e.g., how much the funding/in-kind resources will increase the hours of Marine Patrol Unit operation, the amount of fuel and maintenance of Marine Patrol Units to be supplied, the amount and type of equipment to be supplied) and describe and justify the specific geographic area within which the increased law enforcement will be applied. The agreement or contract must be completed before the Service makes a final determination on the proposed project to ensure that incidental take of the manatee is unlikely to occur after project implementation.

Such an agreement or contract must also specify applicant reporting requirements to the Federal action agency and/or the Service. Specific reporting details must be included in the agreement or contract. Such details must include, but are not limited to: the number of officers provided, the number of officer hours spent on the water enforcing manatee speed zones, the number of on-the-water public contacts (e.g., citations, warnings) made by law enforcement staff, the number of hours and type of training that officers received on law enforcement related to manatees, the types of equipments and material purchased, the amount of funds expended for material and equipment, the amount of administrative overhead required to implement this agreement/contract, the number of manatees observed by enforcement officers inside and outside of designated speed zones, the number of near misses of manatee-watercraft collisions observed, and the ten-year annual average number of watercraft-related manatee mortalities within one-half mile of the boundaries of the area patrolled by the increased law enforcement prior to and after implementation of increased law enforcement.

Providing Funds for Enforcement and/or Education to a Conservation Entity

Permit applicants for single family watercraft access projects generally do not have the knowledge or resources to complete individual agreements with law enforcement entities. In addition, the amount of funds contributed for one access point or even several small projects together is not conducive to implementing an effective enforcement program. The primary purpose of establishing a manatee conservation fund with a conservation organization is to provide single family applicants for watercraft access projects an efficient and effective means to reduce the impacts of their watercraft access facility on manatees.

While the resources to track an individual single family contribution to a specific law enforcement effort may exceed the cost of on-the-water enforcement, pooling such contributions will be more effective. The aggregation of many small contributions into one fund provides the ability to implement viable and effective enforcement programs in the area of impacts from single family watercraft access projects that could not be accomplished individually. However, application of the increased enforcement prior to completion of a given single family watercraft access project may not be assured in every case. The overall goal of the placement of these enforcement activities made possible by the pooled funds is to direct the activities in appropriate locations that ensure that

the impacts of the projects are not likely to cause incidental take of manatees. Additionally, concentrated law enforcement events (e.g., weekend task forces) may provide one means to target areas with high rates of permit applications for single family watercraft access projects to ensure on-the-water enforcement is focused, to the maximum extent practicable, prior to the addition of watercraft to manatee habitat.

In order to contribute funds to a conservation organization, permit applicants for watercraft access projects other than single family applicants must meet the following prerequisites ensuring that incidental take from watercraft collisions is unlikely to occur as a result of their particular project: (1) Adequate speed zones exist in the areas reasonably anticipated to have increased watercraft traffic as a result of the project; (2) signage in these areas is adequate to ensure that boaters are aware of the speed zones; (3) speed zone enforcement in these areas is, or with project conservation measures will be, sufficient to prevent watercraft collisions from occurring as a result of the project; and (4) these measures must be in place or will be in place prior to project implementation. Again, if for whatever reason any of these conditions are not or cannot be satisfied in a particular area, then the Service cannot conclude that a project is not likely to adversely affect manatees.

The Service is working with the State, counties, local governments and conservation organizations to establish programs for use by permit applicants.

If an applicant elects to provide a conservation contribution as a conservation measure, the applicant must include in the proposed contribution any additional fees required to administratively manage the funds by the entity. The contribution of funds must be transferred to the conservation entity prior to the Service's final determination on the proposed project. The agreement/contract between the entity that receives the funds from the applicant and the entity to which the funds are transferred for enforcement purposes must include information explaining how the funding will be used (e.g., how much the funding will increase the hours of enforcement on the water, or how much fuel or maintenance of watercraft will be supplied by the funding, or the amount and type of equipment to be supplied) and describe the area within which the funds will be used. The agreement/contract must also include the reporting requirements identified in the previous section.

Again, based on the best scientific and commercial data available and as an interim measure only, the Service may find that a financial contribution from any applicant to an organization or entity that participates in and/or funds manatee conservation actions is consistent with the principles in these guidelines.

Implementation of Conservation Measures Where Inadequate Speed Zones Exist or Are Being Inadequately Enforced

Of the 14 Florida counties totally within high risk manatee areas, four counties currently have either no speed zones or only site-specific speed zones. Additionally, the Service considers many of the existing speed zones in portions of these 14 counties to be insufficient or inadequately enforced for the Service to concur with a determination that the project will not adversely affect manatees by contributing to incidental take through watercraft collisions. Within these counties, where speed zones are currently lacking or inadequate, it must be shown that appropriate speed zones are in place in the areas anticipated to be affected by the project, speed zone signage is adequate throughout these areas, and that adequate levels of speed zone enforcement will occur throughout these areas before the Service can determine that a proposed watercraft access facility is unlikely to cause incidental take of manatees.

These types of determinations will need to be made on a case-by-case basis based on the specific circumstances and conservation needs present in the area. If it is determined that the existing speed zones are not adequate to reduce incidental take to an unlikely to occur level or that the speed zones will not be adequately enforced even with conservation measures incorporated into the project design, the Service would not be able to conclude that the project is not likely to contribute to the incidental take of manatees through watercraft collisions.

Of the 15 counties with medium risk areas only, nine have county-wide (Nassau and St. Lucie) or site-specific (Flagler, Hernando, Lake, Levy, Pinellas, Putnam, and Seminole) speed zones. The remaining six medium risk counties (Dixie, Glades, Hendry, Pasco, Taylor, and Wakulla) have no enforceable speed zones. As with high risk counties, the Service will make case-by-case determinations as to whether a project is likely to contribute to the incidental take of manatees through watercraft collisions, in light of manatee mortality history and trends in the area, as well as any conservation measures incorporated into the project's design. In those areas where speed reduction is necessary yet no speed zones currently exist and/or speed zones will not be sufficiently enforced to render watercraft collisions in the affected area unlikely to occur (despite any conservation measures incorporated into the project's design), we believe that we would not be able to concur with a determination that the project is not likely to result in the incidental take of manatees through watercraft collisions.

Since projects in low risk counties have no history of any watercraft-related manatee mortality, the Service will likely find that proposed projects in these areas are unlikely to contribute to the incidental take of manatees through watercraft collisions. As with any proposed project in manatee habitat, however, the Service will assess, on a case-by-case basis, whether any project is likely to result in incidental take through watercraft collisions or have any adverse effects on the species.

Determining the Amount of Increased Law Enforcement Hours Necessary

As stressed previously, in order to conclude that any project in high or medium risk counties will not contribute to incidental take of manatees through watercraft collisions, the Service must assess whether adequate speed zones in the affected areas exist and whether these speed zones are being, or will be (prior to project impacts), sufficiently enforced so that the project is unlikely to contribute to the incidental take of manatees through watercraft collisions. In making these determinations, the Service will rely on the best scientific and commercial data available (including, for example, manatee mortality data for a particular area, information regarding boater compliance with speed zones in the area, the anticipated beneficial effect of any conservation measures incorporated into a project's design, including the degree to which those measures are anticipated to increase speed zone enforcement in the area, etc.).

While recognizing the necessity for site-specific, case-by-case determinations, we are interested in reviewing alternative methods for assessing the adequacy of speed zone enforcement in manatee habitat, i.e., how the Service should analyze whether speed zone enforcement in a particular area is, or will be (in light of any conservation measures incorporated into a project) sufficient to ensure that the incidental take of manatees through

watercraft collisions do not occur as a result of new watercraft access projects in an area. Accordingly, we invite comments regarding such methods as well as any other features of this guidance document.

Application of this guidance will result in increased speed zone enforcement. These enforcement efforts will be directed to the areas where new access facilities are developed to assure that potential incidental take associated with the new watercraft access facility is unlikely to occur and thus incidental take exemption is not needed. This increased enforcement will emphasize laws and regulations that relate to manatee incidental take, whereas current enforcement activities are comprised of a broad suite of enforcement duties (e.g., fishing violations, no wake zone violations, safety violations) only some of which affect the incidental take of manatees. In addition to ensuring that the likelihood of incidental take related to new watercraft access is reduced to an unlikely to occur level, added enforcement in these areas will also serve to decrease the likelihood of incidental take from pre-existing watercraft activity.

We believe that law enforcement will control watercraft operator behavior to reduce effects to an unlikely to occur level until such time as the long-term strategy is finalized for manatee conservation. Proposing the guidance within this document as an interim strategy, the Service believes that up to ten years may be required to finalize this long-term conservation strategy. Therefore, we have established this ten-year guidance document as operating procedures until such time that the long-term conservation strategy for manatee conservation is implemented, such as the development of incidental take regulations under MMPA or the establishment of federally-designated manatee sanctuaries and refuges or the implementation of a statewide boater registration fee to support increased law enforcement. We conducted the following analysis to determine the level of increased law enforcement necessary in high and medium risk areas to ensure that watercraft access projects will effectively decrease to an unlikely to occur level the likelihood of incidental take associated with that project.

We calculated a recommended level of increased enforcement per watercraft access point in high-risk counties. Currently, Florida has a statewide average of one Florida Marine Patrol enforcement officer per 1,356 registered watercraft. The total number of work hours in a year given a 40-hour work week is 2,080. Dividing this total number of work hours by 1,356 registered watercraft yields a current average of 1.5 hours of enforcement per registered watercraft per year. Because trends in watercraft-related manatee mortality continue to rise statewide, we believe that a conservation law enforcement level that exceeds this current average per registered watercraft, that is strategically applied to increase enforcement of manatee laws and regulations, and that extends over a ten-year period, is necessary to ensure that incidental take, due to additional watercraft gaining access through the project, will be unlikely to occur. The annual change in watercraft-related manatee mortality between 1990–1999 averaged more than nine percent. Therefore, in order for the project to not likely adversely affect and not likely cause the incidental take of manatees, we find that additional enforcement must be provided at a level of the current statewide average plus ten percent (1.65 hours) per watercraft provided access per year for ten years. For applicants establishing an agreement directly with a law enforcement entity, the agreement must indicate the total number of enforcement hours (number of watercraft access points x 1.65 hours) for the ten-year period necessary to ensure that incidental take is unlikely to occur.

For single family applicants contributing funds to a conservation entity, the contribution amount must be sufficient to provide 1.65 hours of enforcement per year for the ten-year period necessary to ensure that incidental take is unlikely to occur. Again, based on the best scientific and commercial data available and as an interim measure only, the Service may find that a financial contribution from any applicant to an organization or entity that participates in and/or funds manatee conservation actions is consistent with the principles in these guidelines.

The current ratio of one law enforcement officer per 1,356 registered watercraft is a statewide average and not a site-specific ratio. Applying this ten percent increase in law enforcement above the current statewide average will result in an enforcement increase by a ratio of one officer per 1,261 watercraft, a 110 percent increase over the current level of State law enforcement, within the area likely to be affected by the watercraft access facility, assuming that State law enforcement levels remain the same. At this time, the Service does not have any information to indicate that such law enforcement level will increase or decrease.

Nonetheless, as stressed previously, in order to conclude that any project in high or medium risk counties will not contribute to incidental take of manatees through watercraft collisions, the Service must assess whether adequate speed zones in the affected areas exist and whether these speed zones are being, or will be (prior to project impacts), sufficiently enforced so that the project is unlikely to contribute to the incidental take of manatees through watercraft collisions.

We are considering alternate methods of determining the appropriate level of increased law enforcement necessary per watercraft access. One such method would involve calculating a relative risk ratio for discrete geographic areas such as counties. Such a ratio might be calculated based on the number of manatees that summer or winter in the area, the number of registered watercraft in the area, and the average annual mortality in the area. By calculating such a risk ratio, we could determine the law enforcement level to be recommended in current high mortality areas relative to law the enforcement levels in areas where mortality is currently low. We currently do not have manatee abundance data for each county that would allow us to calculate such a risk ratio. We also are unaware of data that would allow us to account for the effect of watercraft registered in other states and brought into Florida waters. We invite your comments on the use of the current statewide average enforcement ratio plus ten percent, and on the potential use of relative risk areas in determining the appropriate level of increased enforcement necessary per watercraft access. We also invite suggestions on any other equitable method of determining an appropriate law enforcement level.

Based upon comments received, we may choose to modify the guidance on the appropriate level of increased enforcement necessary per watercraft access. Nonetheless, this document reflects the level of law enforcement the Service currently finds to be adequate based on the best scientific and commercial data available to reduce incidental take of manatees to the point that it is unlikely to occur with respect to new watercraft access facilities. We will continue to monitor manatee mortality in these high risk areas to ascertain if the recommended law enforcement level of 1.65 hours of enforcement per watercraft access per year is sufficient or necessary to ensure that incidental take is unlikely to occur as a result of the increased access from

that facility. We will amend this guidance in the future if this level of law enforcement improves or is insufficient. Factors that may influence the law enforcement level may include: Watercraft-related mortality numbers and trends; manatee population trends; law enforcement events, amount and extent of speed zones; and designation of sanctuaries. The Service will ensure that any change to the recommended law enforcement level is based on the most current scientific information available.

If the proposed conservation measure in a high mortality risk county involves providing equipment or training to law enforcement officers, the amount of equipment or training to be provided must be equal in conservation value to 1.65 hours of enforcement per watercraft that is provided access per year over a ten-year period.

Medium risk areas, based on manatee mortality data, experience approximately ten percent of the total manatee mortality that is measured in high risk areas. Given the reduced degree of risk associated with medium risk areas, ten percent of the high risk area law enforcement effort is needed to reduce indirect effects to the point that the facility is unlikely to cause incidental take of manatees or adversely effect critical habitat. Based on this percentage, a project should incorporate, for each watercraft that is provided access, 0.16 hour of enforcement per year over a ten-year period. This ten percent change applies equally to funds contributed to a conservation entity, i.e., the contribution amount from single family applicants must be sufficient to provide 0.16 hour of enforcement per year for the ten-year period necessary to ensure that incidental take is unlikely to occur.

If it is determined that means other than increasing law enforcement hours on the water may be an appropriate conservation measure in a medium risk county, the alternate means should be comparable in value to 0.16 hours of enforcement per year over the ten-year period.

Low risk areas represent the extended summer, or warm season, manatee range. In low risk areas, there is no documented watercraft-related mortality and, at this time, we believe that the potential for incidental take from watercraft is unlikely to occur. Thus, we do not believe that in these areas conservation measures included as part of a proposed watercraft access facility will be necessary to come to a not likely to adversely affect determination. However, any project that would incorporate such conservation efforts would contribute to overall manatee recovery and such incorporation of measures is encouraged.

Program Monitoring and Evaluation

The effectiveness of this guidance will be evaluated on a continuing basis by comparing watercraft-related manatee mortality data in areas where law enforcement has been increased to previous rates of mortality. Although review of program implementation and evaluation of manatee mortality and injury are continuous processes, the manatee mortality risk areas will be assessed at one-year intervals after implementation of this guidance. If the Service determines at any time that this interim strategy is not meeting its intended objectives, then it will be altered, suspended, or revoked until corrections can be made to rectify the situation. Monitoring implementation and effectiveness will determine the need to continue, to extend the scope of, to change elements of, and/or to add new components to the guidance. The Service will have a lead position that will be responsible for monitoring and accounting in coordination with the Manatee Recovery Team and all facilities that implement this guidance. Records and databases maintained by the Service can be reviewed by the public upon request. Table One of the Guidance, which reflects the high, medium, and low risk areas, will be revised based annually on current mortality data.

Long-Term Conservation Strategy

Enforcement continues to be validated as an effective means of conserving the manatee by reduction in adult mortality. However, a larger program than that provided by this interim strategy is necessary to address existing watercraft-related mortality. Such a program has not been developed and we are currently working with various entities to accomplish this goal through an incidental take regulation under the MMPA. Concurrently, we are working with all partners to ensure speed zone placement and enforcement is both appropriate and adequate.

We encourage the State of Florida, Corps of Engineers, or other Federal, tribal, local, and private entities to seek incidental take authorization for their activities that are likely to cause the incidental take of manatees as defined under the ESA and MMPA, instead of addressing access developments one by one through the use of this interim strategy. Incidental take may be authorized under the MMPA if the Service finds that incidental take associated with the requester's activity, after taking into account all measures committed to by the requester to reduce the affect of the activity, will have a negligible impact on manatees. Incidental take can be exempted under the ESA only upon completion of authorization under the MMPA. The MMPA incidental take regulation process requires compliance with the National Environmental Policy Act and public comment and review. The result of this rulemaking process would be to address incidental take under the MMPA and the ESA in the process of recovering the manatee. The final Manatee Recovery Plan is expected to support both the interim strategy and this long term rulemaking process and provide additional guidance if deemed appropriate by the Service and the Manatee Recovery Team.

Public Comments Solicited

We are seeking information, views, and opinions from the public related to this interim strategy, the supporting analyses, and proposed implementation. We will consider all comments received by the date specified above.

Authority: The authority for this action is section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)

Dated: December 18, 2001.

Sam D. Hamilton,

Regional Director.

[FR Doc. 01–6040 Filed 3–13–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Arrowrock Dam Outlet Works Rehabilitation, INT-FES 01–12

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Availability of Final Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior, Bureau of Reclamation (Reclamation) has prepared a final environmental impact statement (Final EIS) to examine the impacts of alternatives to rehabilitate the outlet works at Arrowrock Dam. The Bureau of Reclamation proposes to remove 10 lower level Ensign valves and replace them with clamshell gates. Two action alternatives were identified that differed only in the timing of reservoir drawdown, and the elevation of Arrowrock Reservoir and Lucky Peak Lake in the third construction season. The preferred alternative requires a

longer period of drawdown of Arrowrock Reservoir, but both Arrowrock Reservoir and Lucky Peak Lake would remain at a higher elevation than with the other action alternative. Based upon comments received on the Draft EIS concerning impacts to water quality and bull trout, the preferred alternative was modified so that the probability of use of the sluice gates was reduced to approximately 15%. The No Action Alternative is also evaluated. The No Action Alternative is defined as the most likely future without the proposed project, and includes actions that would be required for an intensive maintenance program if the Ensign valves were not replaced.

ADDRESSES: Comments may be addressed to Mr. John Tiedeman, Bureau of Reclamation, 1150 N. Curtis Road, Suite 100, Boise ID 83706–1234.

FOR FURTHER INFORMATION CONTACT: Mr. John Tiedeman, (208) 378–5034.

SUPPLEMENTARY INFORMATION: Arrowrock Dam and Reservoir, completed in 1915, were constructed by the Bureau of Reclamation (Reclamation). The dam is located on the main stem Boise River about 17 river miles upstream from the city of Boise. Anderson Ranch Dam and Reservoir, located on the South Fork Boise River and generally east of Arrowrock Dam, were completed by Reclamation in 1950. Lucky Peak Dam and Lake, located to the southwest and about 11 river miles downstream of Arrowrock Dam, were completed by the U.S. Army Corps of Engineers (Corps) in 1957. Reclamation and the Corps operate the three storage dams in a coordinated method for irrigation water supply (Reclamation markets the water supply in Lucky Peak Lake for irrigation), flood control, recreation, and fish and wildlife.

Reclamation began considering modification of Arrowrock Dam outlet works in 1982; some conceptual designs for replacement of some of the Ensign valves were developed in 1983. Over several years, various possible designs were identified and evaluated, and in 1987 a conceptual design using clamshell gates was developed. Increasing maintenance problems resulted in the current effort to identify and evaluate solutions to the maintenance problems associated with the now 85-year old Ensign valves. The scope of this study was limited to valve replacement to retain and improve operational flexibility of Arrowrock Dam and Reservoir. Environmental effects of the action and No Action alternatives were analyzed for the stream reaches and reservoirs upstream and downstream from Arrowrock Dam and Reservoir. Potential environmental effects are generally limited to those associated with construction and the reservoir drawdowns necessary for maintenance and replacement of the lower outlets. One of the major concerns is about impacts to bull trout which are found in Arrowrock Reservoir and upstream; bull trout were listed as a threatened species in June, 1998.

Reclamation's scoping process included numerous meetings with state and Federal agencies, local groups, and interested individuals. Notices of intent to prepare an EIS and to hold public scoping meetings were published and two public scoping meetings were held on November 20, 1998. Public comments received during scoping were considered in the development of alternatives. Following release of the Draft EIS, two Public Hearings were held on December 12, 2000. Based upon comments received concerning water quality and impacts to bull trout during the Draft EIS review period, the preferred alternative was modified by reducing the probability of use of the sluice gates to15%.

The Final EIS is available for viewing on the internet at: http://www.pn.usbr.gov/project/arrowrock/arrowrock.shtml

Dated: March 9, 2001.

Kenneth R Pedde,

ActingRegional Director, Pacific Northwest Region.

[FR Doc. 01–6308 Filed 3–13–01; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–894 (Final)]

Certain Ammonium Nitrate From Ukraine

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–894 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Ukraine of certain ammonium nitrate, provided for in subheading 3102.30.00 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: March 5, 2001.

FOR FURTHER INFORMATION CONTACT: Karen Taylor (202–708–4101), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain ammonium nitrate from Ukraine are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on October 13, 2000, by the Committee For Fair Ammonium Nitrate Trade ("COFANT") whose members include Air Products & Chemicals, Inc., Allentown, PA; Mississippi Chemical Corp., Yazoo City, MS; El Dorado Chemical Co., Oklahoma City, OK; La Roche Industries, Inc., Atlanta, GA; and Nitram, Inc., Tampa, FL.

Participation in the investigation and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative

[1] For purposes of this investigation, Commerce has defined the subject merchandise as "solid, fertilizer grade ammonium nitrate ('ammonium nitrate') products, whether prilled, granular or in other solid form, with or without additives or coating, and with a bulk density equal to or greater than 53 pounds per cubic foot. Specifically excluded from this scope is solid ammonium nitrate with a bulk density less than 53 pounds per cubic foot (commonly referred to as industrial or explosive grade ammonium nitrate)."

consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on June 12, 2001, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on June 26, 2001, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 18, 2001. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 21, 2001, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is June 19, 2001. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 3, 2001; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 3, 2001. On July 18, 2001, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 20, 2001, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: March 8, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–6340 Filed 3–13–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–923 (Preliminary)]

Oleoresin Paprika From India

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731–TA–923 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from India of oleoresin paprika, provided for in subheading 3301.90.10 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by April 20, 2001. The Commission's views are due at the Department of Commerce within five business days thereafter, or by April 27, 2001.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: March 6, 2001.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202–205–3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://*

www.usitc.gov). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on March 6, 2001, by Rezolex, Ltd., Co., Las Cruces, NM.

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. 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 investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on March 26, 2001, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202–205–3185) not later than March 22, 2001, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before March 30, 2001, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: March 7, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–6339 Filed 3–13–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–439]

In the Matter of Certain HSP Modems, Software and Hardware Components Thereof,and Products Containing Same; Notice of Commission Decision Not To Review an Initial Determination Terminating the Investigation as to One Patent

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID") terminating U.S. Letters Patent 5,940,459 from the above-captioned investigation, based on the withdrawal of allegations of infringement relating to that patent.

FOR FURTHER INFORMATION CONTACT: Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3152. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

The Commission instituted this investigation on October 11, 2000, based on a complaint filed by PCTEL, Inc. ("PCTEL") of Milpitas, California. The complaint named Smart Link Ltd. of Netanya, Israel and Smart Link Technologies, Inc. of Watertown, Massachusetts (collectively "Smart Link") and ESS Technology, Inc. ("ESS") of Fremont, California as respondents. The complaint alleged that Smart Link and ESS had violated section 337 of the Tariff Act of 1930 by importing into the United States, selling for importation, and/or selling within the United States after importation certain HSP modems, software and hardware components thereof, and products containing the same by reason of infringement of claims 1–2 of U.S. Letters Patent 5,787,305, claims 1–4, 7–8, and 11–15 of U.S. Letters Patent 5,931,950, claims 1, 2, 10, and 15–17 of U.S. Letters Patent 4,841,561, and claims 1, 6–7, 10–12, and 15–19 of U.S. Letters Patent 5,940,459 ("the '459 patent").

On February 5, 2001, the complainant PCTEL filed a motion for partial termination of this investigation as to its claims of infringement of the '459 patent. On February 15, 2001, the Commission investigative attorney filed a response supporting the motion. On February 16, 2001, the ALJ issued an ID (Order No. 16) granting the motion. No petitions for review of the ID were filed.

The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

Copies of the public versions of the subject IDs, and all other

nonconfidential documents filed in connection with this investigation, are or will be 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., Washington, DC 20436, telephone 202–205–2000.

By order of the Commission.

Issued: March 7, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–6338 Filed 3–13–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–452]

In the Matter of Certain Personal Watercraft and Components Thereof; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 6, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Yamaha Hatsudoki Kabushiki Kaisha, dba Yamaha Motor Company, Ltd. of Iwata, Japan and Sanshin Kohyo Kabushiki Kaisha, dba Sanshin Industries Company, Ltd. of Hamamatsu, Japan. A supplement to the complaint was filed on February 26, 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 personal watercraft and components thereof by reason of infringement of claims 1–5 and 9–12 of U.S. Letters Patent 5,752,867; claims 1, 2, 3, 8, 11, 15, 18, 19, 21, 22, 41, 42, and 43 of U.S. Letters Patent 5,490,474; claims 1–11 of U.S. Letters Patent 5,619,950; claims 23–27 and 36–40 of U.S. Letters Patent 5,234,364; claims 19–24 of U.S. Letters Patent 5,572,943; claims 1, 2, 11, 12, 13, 16, 17, 19, 20, and 21 of U.S. Letters Patent 5,699,749; claim 9 of U.S. Letters Patent 5,550,337; claim 24 of U.S. Letters Patent 4,811,560; claim 1 of U.S. Letters Patent 4,813,898; claims 23, 40, and 41 of U.S. Letters Patent 5,390,621; and claims 1–9 of U. S. Letters Patent 4,949,684. The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public*.

FOR FURTHER INFORMATION CONTACT: 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).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on March 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 personal watercraft or components thereof by reason of infringement of claims 1–5 or 9–12 of U.S. Letters Patent 5,752,867; claims 1–3, 8, 11, 15, 18, 19, 21, 22, 41, 42, or 43 of U.S. Letters Patent 5,490,474; claims 1–11 of U.S. Letters Patent 5,619,950; claims 23–27 or 36–40 of U.S. Letters Patent 5,234,364; claims 19–24 of U.S. Letters Patent 5,572,943; claims 1, 2, 11, 12, 13, 16, 17, 19, 20, or 21 of U.S. Letters Patent 5,699,749; claim 9 of U.S. Letters Patent 5,550,337; claim 24 of U.S. Letters Patent 4,811,560; claim 1 of U.S. Letters Patent 4,813,898; claims 23, 40, or 41 of U.S. Letters Patent 5,390,621; or claims 1–9 of U. S. Letters Patent 4,949,684; and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

Yamaha Hatsudoki Kabushiki Kaisha, dba Yamaha Motor Company, Ltd., 2500 Shingai, Iwata, Shizuoka 438–8501, Japan

Sanshin Kohyo Kabushiki Kaisha, dba Sanshin Industries Company, Ltd., 1400 Nipashi, Hamamatsu, Shizuoka 432–8528, Japan

(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:

Bombardier Inc., 800 Rene-Levesque Blvd. West, Montreal, Quebec, Canada H3B 1Y8

Bombardier Motor Corporation of America, 7575 Bombardier Court, P.O. Box 8035, Wausau, Wisconsin 54402–8035

(c) T. Spence Chubb, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401–F, 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 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 notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the

allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: March 9, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–6341 Filed 3–13–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–453]

In the Matter of Certain Programmable Logic Devices 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 February 12, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Altera Corporation of San Jose, California. An amended complaint was filed on February 28, 2001. The complaint, as amended, 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 programmable logic devices and products containing same by reason of infringement of claims 1, 8–13, 31, 33, and 34 of U.S. Letters Patent 5,970,255 and claims 11 and 12 of U.S. Letters Patent 5,260,610. The complaint further alleges that there exists an industry in the United States 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 amended complaint, 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: Karin J. Norton, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2606.

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 March 9, 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 programmable logic devices or products containing same by reason of infringement of claims 1, 8–13, 31, 33, or 34 of U.S. Letters Patent 5,970,255 or claims 11 or 12 of U.S. Letters Patent 5,260,610, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Altera Corporation, 101 Innovation Drive, San Jose, CA 95134.

(b) The respondent is the following company upon which the complaint is to be served—Xilinx, Inc., 2100 Logic Drive, San Jose, CA 95124.

(c) Karin J. Norton, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401–A, 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.

A response 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 response 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 a response to the complaint will not be granted unless good cause therefor is shown.

Failure of the 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 the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Dated: March 9, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–6342 Filed 3–13–01; 8:45 am]

BILLING CODE 702–02–M

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: Notice of information collection under review; Reinstatement, with change, of a previously approved collection for which approval has expired; COPS MORE (Making Officer Redeployment Effective) '98 Progress Report.

The Department of Justice, Office of Community Oriented Policing Service, has submitted the following information collection request for review and

clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until May 14, 2001.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used;

(3) Enhance the quality, utility, and clarity of the information to 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.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Written comments may also be submitted to Sarah Hosemann, Management Analyst, Office of Community Oriented Policing Services, 1100 Vermont Avenue, NW., Washington, DC 20530, or via facsimile at (202) 514–2913.

Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* COPS MORE (Making Officer Redeployment Effective) '98 Progress Report.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form: COPS 037/01. Office of Community Oriented Policing Services, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local or Tribal Government Agencies that have received funding under the COPS MORE '98 grant program are required to respond.

The information collected on the COPS MORE '98 Progress Report is necessary track summary data on the characteristics of the civilians hired, and/or the equipment purchased with COPS funding and to monitor the progress of the grantee in implementing their COPS MORE '98 Grant. In addition, submission of the COPS MORE '98 Progress Report will assist the COPS Office in identifying recipients which may be in need of technical assistance concerning the proper utilization of their COPS MORE '98 Grant Award.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* COPS MORE '98 Progress Report: Approximately 1,830 respondents, at 5 hours per respondent (including record-keeping).

(6) *An estimate of the total public burden (in hours) associated with the collection:* The approximated number of burden hours associated with this information collection is 9,150 hours.

FOR FURTHER INFORMATION CONTACT: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, National Place, Suite 1220, 1331 Pennsylvania, NW., Washington, DC 20530.

Dated: March 7, 2001.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 01–6332 Filed 3–13–01; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2123–01]

Announcement of the Final Three Meetings of the District Advisory Council on Immigration Matters

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of meetings.

SUMMARY: The Immigration and Naturalization Service (Service) has established a District Advisory Council on Immigration Matters (DACOIM) to provide the New York District Director of the Service with recommendations on ways to improve the response and reaction to customers in the local jurisdiction and to develop new partnerships with local officials and community organizations to build and enhance a broader understanding of immigration policies and practices. The purpose of this notice is to announce the forthcoming DACOIM meetings.

DATES AND TIMES: The final three meetings of the DACOIM are scheduled as follows:

- March 29, 2001, at 10 a.m.
- April 5, 2001, at 1 p.m.
- April 26, 2001, at 1 p.m.

ADDRESSES: All three of these meetings will be held at the Jacob Javitts Federal Building, 26 Federal Plaza, Room 537, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: Christian A. Rodriguez, Designated Federal Officer, Immigration and Naturalization Service, 26 Federal Plaza, Room 14–100, New York, New York 10278, telephone: (212) 264–0736.

SUPPLEMENTARY INFORMATION:

Background

On September 10, 1997, the Service published a notice in the **Federal Register** at 62 FR 47692 establishing the DACOIM in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. app. 2 (1972), and 41 CFR 101–6.1001–6.1035 (1992). The DACOIM was established to provide recommendations to the New York District Director on ways to improve the response and reaction to customers in the local jurisdiction, and to increase cooperative opportunities by serving as a community base for anchoring outreach activities and education, in order to strengthen the relationship between the Service and all members of the community. Since September 10, 1997, the Service held 11 DACOIM meetings.

Summary of Agenda

Since the DACOIM charter will expire on May 13, 2001, the purpose of the final three meetings will be to continue to conduct general business, review subcommittee reports, and facilitate public participation, as well as facilitating the closure of the DACOIM committee. The DACOIM meetings will be chaired by Jack Byrnes, Section Chief, New York District, Immigration and Naturalization Service.

Public Participation

The DACOIM meetings are open to the public, but advance notice of attendance is requested to ensure adequate seating. Persons planning to

attend should notify the contact person at least two (2) days prior to each meeting. Members of the public may submit written statements at any time before or after the meeting for consideration by the DACOIM. Written statements should be sent to Christian A. Rodriguez, Designated Federal Officer, Immigration and Naturalization Service, 26 Federal Plaza, Room 14–100, New York, New York 10278, telephone: (212) 264–0736. Written statements will be considered for presentation at the meetings if they are received by:

(1) March 23, 2001, for the meeting on March 29, 2001.
(2) April 2, 2001, for the meeting on April 5, 2001.
(3) April 20, 2001, for the meeting on April 26, 2001.

Minutes of the meetings will be available upon request.

Dated: March 8, 2001.

Mary Ann Wyrsch,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–6307 Filed 3–13–01; 8:45 am]

BILLING CODE 4410–10–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Computational Infrastructure & Research; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meetings of the Special Emphasis Panel in Advanced Computational Infrastructure & Research (#1185):

Date/Time	Place
April 2–3, 2001; 8 a.m.–5 p.m.	National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.
April 9–10, 2001; 8 a.m.–5 p.m.	National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.
April 19–20, 2001; 8 a.m.–5 p.m.	Catamaran Hotel, San Diego, CA.
April 30–May 1, 2001; 8 a.m.–5 p.m.	National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meetings: Closed.

Contact Person: Dr. Charles H. Koelbel, National Science Foundation, 4201 Wilson Boulevard, Room 1122, Arlington, VA 22230, (703) 292–8970.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Information Technology Research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4), and (6) of the Government in the Sunshine Act.

Dated: March 9, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–6354 Filed 3–13–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Computer-Communications Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Computer-Communications Research (1192).

Date/Time: March 27, 2001; 8:30 a.m.–6 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: John Cozzens, National Science Foundation, 4201 Wilson Boulevard, Room 1145, Alrington, VA 22230. Telephone: (703) 292–8912.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as a part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries: and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 9, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–6355 Filed 3–13–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–318]

Calvert Cliffs Nuclear Power Plant, Inc., Calvert Cliffs Nuclear Power Plant, Unit No. 2; Exemption

1.0 Background

Calvert Cliffs Nuclear Power Plant, Inc. (CCNPPI or the licensee) is the holder of Facility Operating License No. DPR–69, which authorizes operation of Calvert Cliffs Nuclear Power Plant, Unit 2 (CCNPP2). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized-water reactor located in Calvert County in Maryland.

2.0 Purpose

Title 10 of the Code of Federal Regulations (10 CFR), Part 50, Section 50.46 and Appendix K identify requirements for calculating emergency core cooling system (ECCS) performance for reactors containing fuel with zircaloy or ZIRLO cladding, and 10 CFR 50.44 relates, in part, to the generation of hydrogen gas from a metal-water reaction between the reactor coolant and reactor fuel having zircaloy or ZIRLO cladding.

The licensee has requested a temporary exemption to 10 CFR 50.44, 10 CFR 50.46, and Appendix K that would enable CCNPP2 to operate in Cycle 14 with a core containing a lead fuel (test) assembly (LFA) including fuel rods with advanced zirconium alloy cladding.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Under § 50.12(a)(2), special circumstances include, among other things, when application of the regulation in the particular circumstance would not serve, or is not necessary to achieve, the underlying purpose of the rule.

The underlying purpose of 10 CFR 50.46, and 10 CFR part 50, appendix K is to establish requirements for the calculation of ECCS performance and

acceptance criteria for that performance in order to assure that the ECCS functions to transfer heat from the reactor core following a loss-of-coolant-accident (LOCA) such that (1) fuel and clad damage that could interfere with continued effective core cooling is prevented, and (2) clad metal-water reaction is limited to negligible amounts. The licensee has performed a calculation demonstrating adequate ECCS performance for CCNPP2 and has shown that use of the lead fuel assembly does not have a significant impact on that previous calculation. The lead fuel assembly, with the zirconium-based alloy cladding, meets the same design basis as the Zircaloy-4 fuel which is currently in the CCNPP2 reactor core and has similar thermal-hydraulic characteristics. Because the LFA will be placed in a non-limiting location (Technical Specification 4.2.1 limits placement of the LFA to a non-limiting location in the core), the placement scheme and the similarity of the advanced alloys to Zircaloy-4 will assure that the behavior of the fuel rods clad with these alloys are bounded by the fuel performance and safety analyses performed for the Zircaloy-4 clad rods currently in the Unit 2 core. No safety limits will be changed or setpoints altered as a result of using the lead fuel assembly.

In similar reviews of applications to use advanced fuel, the staff found that fuels with advanced cladding do not introduce a mixed core penalty in licensing safety analyses, provided that the resident fuel and the LFA were of like geometry. The LFA and fuel currently in use at CCNPP2 are of like geometry. Therefore, the staff concludes that use of the LFA will not introduce a mixed core penalty into the safety analyses for CCNPP2.

Based on the above, the staff finds that the licensee has achieved the underlying purpose of 10 CFR 50.46 and 10 CFR part 50, appendix K with respect to use of the LFA at CCNPP2.

The underlying purpose of 10 CFR 50.44 is to ensure that means are provided for the control of hydrogen gas that may be generated following a postulated LOCA. The small number of fuel rods in the lead fuel assembly containing advanced zirconium-based claddings in conjunction with the chemical similarity of the advanced claddings to zircaloy and ZIRLO ensures that previous calculations of hydrogen production resulting from a metal-water reaction would not be significantly changed. The licensee calculated the metal-water reaction rate for the advanced zirconium-based cladding material and determined that the amount of hydrogen generated will be within the design basis. As such, the licensee has achieved the underlying purpose of 10 CFR 50.44.

The staff examined the licensee's rationale to support the exemption request and concurred that the use of an LFA in the Unit 2 core for Cycle 14 would meet the underlying purpose of 10 CFR 50.44, 10 CFR 50.46, and 10 CFR part 50, appendix K. Application of these regulations in these circumstances would not serve the underlying purpose of the rule.

Therefore, the staff concludes that granting an exemption under the special circumstances of 10 CFR 50.12(a)(2)(ii) is appropriate and that an LFA containing fuel rods with advanced zirconium alloy cladding may be used in CCNPP Unit 2, Cycle 14.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Also, special circumstances are present. Therefore, the Commission hereby grants CCNPPI an exemption from the requirements of 10 CFR part 50, §§ 50.44, 50.46, and 10 CFR part 50, appendix K, for CCNPP2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 11608).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 6th day of March 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–6304 Filed 3–13–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on April 5–7, 2001, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Friday, November 17, 2000 (65 FR 69578).

Thursday, April 5, 2001

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–10:30 A.M.: Interim Review of the License Renewal Application for Edwin I. Hatch Nuclear Plant Units 1 and 2 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Southern Nuclear Operating Company regarding the license renewal application for Hatch Units 1 and 2, associated staff's Safety Evaluation Report (SER), selected Boiling Water Reactor Vessel and Internals Project (BWRVIP) reports and the related staff's safety evaluations.

10:50 A.M.–12:00 Noon: Proposed Final License Renewal Guidance Documents (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed final Regulatory Guide DG–1104 and Standard Review Plan associated with license renewal, Generic Aging Lessons Learned (GALL) report, and Nuclear Energy Institute (NEI) 95–10, "Industry Guideline for Implementing the Requirements of 10 CFR Part 54—The License Renewal Rule."

1:00 P.M.–2:30 P.M.: Safety Issues Associated with the Use of Mixed Oxide (MOX) and High-Burnup Fuels (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding safety issues associated with the use of MOX and high-burnup fuels in commercial light water reactors.

2:50 P.M.–4:15 P.M.: Thermal-Hydraulic Issues Associated with the AP1000 Passive Plant Design (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Westinghouse Electric Corporation regarding thermal-hydraulic issues associated with the AP1000 design. [NOTE: A portion of this session may be closed to discuss Westinghouse proprietary information applicable to this matter.]

4:15 P.M.–5:15 P.M.: Break and Preparation of Draft ACRS Reports (Open)—Cognizant ACRS members will prepare draft reports, as needed, for consideration by the full Committee.

5:15 P.M.–7:00 P.M.: Discussion of Proposed ACRS Reports (Open)—

The Committee will discuss proposed ACRS reports on matters considered during this meeting.

Friday, April 6, 2001

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–10:30 A.M.: Draft Final Safety Evaluation Report for the South Texas Project Nuclear Operating Company (STPNOC) Exemption Request (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and STPNOC regarding the staff's draft Final Safety Evaluation Report for the STPNOC exemption request to exclude certain components from the scope of special treatment requirements required by NRC regulations.

10:50 A.M.–11:45 A.M.: Closure of Generic Safety Issues (GSI)–170, "Reactivity Transients and Fuel Damage Criteria for High Burnup Fuel" (Open)—The Committee will hear a report from the cognizant Subcommittee Chairman, and hold discussions with representatives of the NRC staff, as needed, regarding the closure of GSI–170.

1:00 P.M.–1:15 P.M.: Subcommittee Report (Open)—Report by the Chairman of the Materials and Metallurgy Subcommittee regarding risk-informing 10 CFR 50.46, which was discussed during a joint meeting of the ACRS Subcommittees on Materials and Metallurgy, Thermal-Hydraulic Phenomena, and Reliability and Probabilistic Assessment on March 16, 2001.

1:15 P.M.–1:45 P.M.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS.

1:45 P.M.–2:00 P.M.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be made available to the Committee prior to the meeting.

2:00 P.M.–3:00 P.M.: Break and Preparation of Draft ACRS Reports (Open)—Cognizant ACRS members will prepare draft reports, as needed, for consideration by the full Committee.

3:00 P.M.–7:00 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Saturday, April 7, 2001

8:30 A.M.–12:30 P.M.: Proposed ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

12:30 P.M.–1:00 P.M.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 11, 2000 (65 FR 60476). In accordance with these procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Mr. James E. Lyons, ACRS, five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting Mr. James E. Lyons prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with Mr. James E. Lyons if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) P.L. 92–463, I have determined that it is necessary to close a portion of this meeting noted above to discuss Westinghouse proprietary information per 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting Mr. James E. Lyons (telephone 301–415–7371), between 7:30 a.m. and 4:l5 p.m., EST.

ACRS meeting agenda, meeting transcripts, and letter reports are available for downloading or viewing on the internet at http://www.nrc.gov/ACRSACNW.

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., EST, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: March 8, 2001.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 01–6302 Filed 3–13–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Reactor Fuels; Notice of Meeting

The ACRS Subcommittee on Reactor Fuels will hold a meeting on April 4, 2001, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, April 4, 2001–8:30 a.m. until the conclusion of business

The Subcommittee will discuss the safety issues associated with the use of mixed oxide fuel and high burnup fuel. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be

accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Dr. Medhat El-Zeftawy (telephone 301/415–6889) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes in the proposed agenda, etc., that may have occurred.

Dated: March 7, 2001.

James E. Lyons,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 01–6303 Filed 3–13–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Privacy Act; Systems of Records

AGENCY: Nuclear Waste Technical Review Board.

ACTION: Annual notice of systems of records.

SUMMARY: Each Federal agency is required by the Privacy Act of 1974, 5 U.S.C. 552a, to publish annually a description of the systems of records it maintains containing personal information. In this notice the Board provides the required information on two systems of records.

FOR FURTHER INFORMATION CONTACT: Joyce M. Dory, Director of Administration, Nuclear Waste Technical Review Board, 2300 Clarendon Boulevard, Suite 1300, Arlington, VA 22201, (703) 235–4473.

SUPPLEMENTARY INFORMATION: The Board currently maintains two systems of records under the Privacy Act. Each system is described below.

NWTRB–1

SYSTEM NAME:

Administrative and Travel Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Nuclear Waste Technical Review Board, 2300 Clarendon Boulevard, Suite 1300, Arlington, VA 22201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and applicants for employment with the Board, including NWTRB contractors and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing the following information:

(1) Time and attendance;

(2) Payroll actions and deduction information requests;

(3) Authorizations for overtime and night differential;

(4) Credit cards and telephone calling cards issued to individuals;

(5) Destination, itinerary, mode and purpose of travel;

(6) Date(s) of travel and all expenses;

(7) Passport number;

(8) Request for advance of funds and voucher with receipts;

(9) Travel authorizations;

(10) Name, address, social security number, and birth date; and

(11) Employee public transit subsidy applications and vouchers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 100–203, Part E

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM; INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is used "in house." Notwithstanding the above, access may also be gained under the following conditions:

(a) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statutes, or rule, regulation or order issued pursuant thereto.

(b) A record from the system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

(c) A record from this system of records may be disclosed to a federal agency, in response to this request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefits by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

POLICY AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and computer disk.

RETRIEVABILITY:

By type of document, then name.

SAFEGUARDS:

Access is limited to employees having a need to know. Records are stored in locked file cabinets in a controlled access area in accordance with federal guidelines or in password protected electronic databases.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the "General Records Schedules" published by National Archives and Records Administration, Washington, DC. Records within NWTRB are destroyed by shredding or purging.

SYSTEM MANAGER(S) AND ADDRESS:

Nuclear Waste Technical Review Board, 12300 Clarendon Boulevard, Suite 1300, Arlington, VA 22201, Attention: Office of Administration.

NOTIFICATION PROCEDURE:

Requests by an individual to determine if NWTRB–1 contains information about him/her should be

directed to the System Manager listed above. Required identifying information: complete name, social security number, and date of birth.

RECORD ACCESS PROCEDURE:

Same as notification procedures above, except individual must show official photo identification before viewing records.

CONTESTING RECORD PROCEDURE:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Subject individuals, timekeepers, travel officers, official personnel records, GSA for accounting and payroll, and travel agency contract.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

NWTRB–2

SYSTEM NAME:

Mailing Lists.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Nuclear Waste Technical Review Board, 2300 Clarendon Boulevard, Suite 1300, Arlington, VA 22201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those who receive reports in compliance with statutory authority and those individuals who have requested Board reports, newsletters, meeting transcripts and/or press releases.

CATEGORIES OF RECORDS IN THE SYSTEM:

List of names, addresses and materials requested.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 100–203, Part E.

ROUTINE USES OF THE RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Distribution of Board reports, newsletters, meeting transcripts, and press releases. Information is used "in-house." Notwithstanding the above, access may also be gained under the following condition.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating prosecuting such violation or charged with enforcing or implementing the statues, or rule, regulation or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer disk.

RETRIEVABILITY:

By name and type of information requested.

SAFEGUARDS:

Access is limited to employees having a need to know. Lists are kept in password protected electronic databases.

RETENTION AND DISPOSAL:

Requesters are sent periodic requests to update their records and/or remain on the mailing list. Nonrespondents and all asking to be deleted are purged from the list.

SYSTEM MANAGER(S) AND ADDRESS:

Nuclear Waste Technical Review Board, 2300 Clarendon Boulevard, Suite 1300, Arlington, VA 22201, Attention: Office of Administration.

NOTIFICATION PROCEDURES:

Requests by an individual to determine if NWTRB–2 contains information about him/her should be directed to the System Manager (above). Required identifying information: complete name and address.

RECORD ACCESS PROCEDURE:

Same as notification procedure above, except individual must show official photo identification before viewing records.

CONTESTING RECORD PROCEDURE:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Statutory reporting authority and requests from individuals to be placed on a distribution.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: March 6, 2001.

Joyce M. Dory,

Director of Administration.

[FR Doc. 01–6252 Filed 3–13–01; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Performance of Commercial Activities

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Issuance of Transmittal Memorandum No. 23, amending OMB Circular No. A–76, "Performance of Commercial Activities."

SUMMARY: This Transmittal Memorandum updates the annual Federal pay raise assumptions and inflation factors used for computing the Government's in-house personnel and non-pay costs, as generally provided in the President's Budget for Fiscal Year 2002.

DATES: All changes in the Transmittal Memorandum are effective immediately and shall apply to all cost comparisons in process where the Government's in-house cost estimate has not been publicly revealed before this date.

FOR FURTHER INFORMATION CONTACT: Mr. David C. Childs, Office of Federal Procurement Policy, NEOB Room 9013, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Telephone (202) 395–6104.

Availability: Copies of the OMB Circular A–76, its Revised Supplemental Handbook and currently applicable Transmittal Memoranda changes may be obtained at the online OMB Home page address (URL) *http://www.whitehouse.gov/WH/EOP/omb.*

Mitchell E. Daniels, Jr.,

Director.

Attachment

March 7, 2001.

Circular No. A–76 (Revised)

Transmittal Memorandum No. 23

To the Heads of Executive Departments and Agencies

Subject: Performance of Commercial Activities

This Transmittal Memorandum updates the annual Federal pay raise assumptions and inflation factors used for computing the Government's in-house personnel and non-pay costs, as generally provided in the President's Budget for Fiscal Year 2002.

The non-pay inflation factors are for purposes of A–76 cost comparison determinations only. They reflect the generic non-pay inflation assumptions used to develop the FY 2002 Budget baseline estimates required by law. The law requires that a specific inflation factor (GDP FY/FY chained price index) be used for this purpose. These inflation

factors should not be viewed as estimates of expected inflation rates for major long-term procurement items or as an estimate of inflation for any particular agency's non-pay purchases mix.

Federal pay raise assumptions	Military/ civilian (percent)
Effective Date:	
January 2000	4.8
January 2001	3.7
January 2002	3.6
January 2003	3.9
January 2004	3.9
January 2005	3.9
January 2006	3.9
Non-Pay Categories (Supplies and Equipment, etc.):	
FY 2000	1.9
FY 2001	2.1
FY 2002	2.1
FY 2003	2.1
FY 2004	2.1
FY 2005	2.1
FY 2006	2.1

The pay rate (including geographic pay differentials) that are in effect for 2001 shall be included for the development of in-house personnel costs. The pay raise factors provided for 2002 and beyond shall be applied to all employees, with no assumption being made as to how they will be distributed between possible locality and ECI-based increases.

Agencies are reminded that OMB Circular No. A–76, Transmittal Memoranda 1 through Transmittal Memorandum 14 are canceled. Transmittal Memorandum No. 15 provides the Revised Supplemental Handbook, and is dated March 27, 1996 (**Federal Register**, April 1, 1996, pages 14338–14346). Transmittal Memoranda No. 16, 17, 18, and 19 (to the extent it provided Circular A–76 Federal pay raise and inflation factors) are canceled. Transmittal Memorandum No. 20 provided changes to the Revised Supplemental Handbook to implement the Federal Activities Inventory Reform Act of 1998 (P.L. 105.270). Transmittal Memorandum No. 21, which provided last year's Circular A–76 Federal pay raise and inflation factor assumptions is hereby canceled. Transmittal Memorandum No. 22 made additional technical changes to the Revised Supplemental Handbook regarding the implementation of the FAIR Act, A–76 administrative appeals, and the participation of directly affected employees on A–76 Source Selection Boards and their evaluation teams.

Mitchell E. Daniels, Jr.,

Director.

[FR Doc. 01–6253 Filed 3–13–01; 8:45 am]

BILLING CODE 3110–03–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: Withholding Certificate for Railroad Retirement Monthly Annuity Payments; OMB 3220–0149.

The Internal Revenue Code requires all payers of tax liable private pensions to U.S. citizens to: (1) Notify each recipient at least concurrent with initial withholding that the payer is, in fact, withholding benefits for tax liability and that the recipient has the option of electing not to have the payer withhold, or to withhold at a specific rate; (2) withhold benefits for tax purposes (in the absence of the recipient's election not to withhold benefits); and (3) notify all beneficiaries, at least annually, that they have the option of changing their withholding status or elect not to have benefits withheld.

The Railroad Retirement Board provides Form RRB–W4P, Withholding Certificate for Railroad Retirement Payments, to its annuitants to exercise their withholding options. Completion of the form is required to obtain or retain a benefit. One response is requested of each respondent.

No changes are being proposed to the current version of Form RRB W–4P used by the RRB. The RRB estimates that 25,000 annuitants utilize Form RRB W–4P annually. The completion time for Form RRB W–4P varies depending on individual circumstances. The average completion time for Form RRB W–4P is estimated at 40 minutes for recordkeeping, 20 minutes for learning about the law or the form, and 49 minutes for preparing the form.

FOR FURTHER INFORMATION CONTACT: 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. 01–6346 Filed 3–13–01; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Sunshine Act Meeting; Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on March 20, 2001, 10:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Director of Administration Position.

The entire meeting will be closed to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312–751–4920.

Dated: March 9, 2001.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 01–6402 Filed 3–12–01; 10:06 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24888; 812–12450]

Harris & Harris Group, Inc.; Notice of Application

March 8, 2001.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Issuance of certification pursuant to section 851(e) of the Internal Revenue Code of 1986, as amended ("Code").

SUMMARY OF APPLICATION: The SEC is issuing a certification pursuant to section 851(e) of the Code that applicant Harris & Harris Group, Inc. ("Harris") was, for the fiscal year ended December 31, 2000, principally engaged in the furnishing of capital to other

corporations which are principally engaged in the development or exploitation of inventions, technological improvements, new processes or products not previously generally available.

FILING DATES: The application was filed on February 16, 2001, and amended on March 8, 2001.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609; Applicant, One Rockefeller Plaza, 14 West 49th Street, New York, New York 10020.

FOR FURTHER INFORMATION CONTACT: Paula L. Kashtan, Senior Counsel, at (202) 942–0615, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application and a certification. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicant's Representations

1. Harris is a New York corporation. On July 26, 1995, Harris elected to become regulated as a business development company pursuant to section 54(a) of the Investment Company Act of 1940.

2. Harris proposes to qualify as a "regulated investment company" under section 851(a) of the Code pursuant to section 851(e) of the Code. Section 851(b) of the Code imposes certain portfolio diversification requirements on investment companies that seek to qualify as a regulated investment company. Section 851(e) of the Code provides an exemption from these diversification requirements if the investment company, among other things, obtains a certification from the SEC that the investment company is principally engaged in the furnishing of capital to other corporations which are principally engaged in the development or exploitation of inventions, technological improvements, new processes or products not previously generally available (collectively, "Development Corporations").

3. Harris has filed an application seeking a certification pursuant to section 851(e) of the Code for the fiscal year ended December 31, 2000. The application describes certain companies in Harris' portfolio during the fiscal year ended December 31, 2000, that Harris believes to be Development Corporations. Harris states that, in making this determination, it relied upon information provided by the portfolio companies to Harris and to others, including but not limited to, offering circulars, prospectuses, analyst reports, internal company memoranda, patent applications and similar documents. In addition, Harris generally is represented on the boards of directors of its portfolio companies through member or observer status, and also has direct access to senior management of the companies.

4. The following table shows the composition of the total assets of Harris as of each of the calendar quarters ended March 31, June 30, September 30, and December 31, 2000, as set forth in the application.

Assets (at value)	Mar. 31, 2000	June 30, 2000	Sept. 30, 2000	Dec. 31, 2000
Investments representing capital furnished to corporations believed to be Development Corporations	$51,017,259	$36,296,794	$40,120,025	$26,513,426
Other Investments, Cash and Cash Equivalents[1]	5,319,554	8,042,797	15,019,980	16,283,802
Other Assets	536,887	475,704	523,247	546,195
Total Assets	56,873,700	44,815,295	55,663,252	43,343,423

[1] In this category, the value of "Other Investments" was $25,000 at the end of each calendar quarter of 2000.

As reflected in the table above, Development Companies comprised the following percentages of the total assets less cash and cash equivalents of Harris at the end of each calendar quarter of 2000: March 31, 98.9%; June 30, 98.6%; September 30, 95.1%; and December 31, 96.3.%.

Certification

On the basis of the information set forth in the application, it appears that Harris was principally engaged in the furnishing of capital to Development Corporations within the meaning of section 851(e) of the Code in the fiscal year ended December 31, 2000. It is therefore certified to the Secretary of the Treasury, or his delegate, pursuant to section 851(e) of the Code, that Harris was, for the twelve months ended December 31, 2000, principally engaged in the furnishing of capital to other corporations which are principally engaged in the development or exploitation of inventions, technological improvements, new processes or products not previously generally available.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–6321 Filed 3–31–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44048; File No. SR–Amex–01–08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to Restrictions on Specialist Affiliates

March 7, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4[2] thereunder, notice is hereby given that on February 14, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Amex Rule 193 to make technical corrections and to provide an exemption to Amex Rules 186(a) and 950(i) to approved persons of Amex specialists that established, and obtain Exchange approval for, an information barrier

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

between them and the affiliated specialist. The text of the proposed rule change is set forth below. New text is in italics; deleted text is in brackets:

Affiliated Persons of Specialists

Rule 193. (a)–(b) No change.

(c) Notwithstanding the provisions of paragraph (a) of the Rule, an approved person or member organization which is affiliated with a specialist member organization shall not be subject to (i) Rule 170(e), (ii) Rule 175(a), (iii) *Rule 186(a), (iv)* Rules 190(a) and (b) [and (iv)] *(v)* Commentary to Rule 190, *(vi) Commentary .01 to Rule 950(i), (vii) 950(k) and Commentary thereto, and (viii) 950(n) insofar as it applies Rule 170(e), to options* provided that it has established and obtained Exchange approval of procedures restricting the flow of material, non-public corporate or market information between itself and the specialist member organization, and any member, officer, or employee associated therewith.

(d)–(e) No change.

• • • *Commentary*

Guidelines for Exemptive Relief Under Rule 193 for Approved Persons or Member Organizations Affiliated With a Specialist Member Organization

(a) The Exchange Rules listed below impose certain restrictions on an approved person * or member organization which is affiliated with a specialist unit (collectively referred to herein as an "affiliated upstairs firm"):

• Rule 170(e) provides that an affiliated upstairs firm may not purchase or sell any security in which the specialist is registered for any account in which such person or party has a direct or indirect interest.

• Rule 175 provides that an affiliated upstairs firm may not hold or grant any option in any stock in which the specialist is registered.

• *Rule 186(a) provides that no member in a specialist member organization or any officer, employee or approved person therein may be an officer or director of a corporation in whose securities the specialist is registered.*

• Rule 190(a) prohibits an affiliated upstairs firm from engaging in any business transaction with the issuer of a speciality stock and its insiders.

• Rule 190(b) prohibits an affiliated upstairs firm from accepting orders in speciality stock directly from the issuer, its insiders and certain designated institutions.

• Rule 190 Commentary prohibits an affiliated upstairs firm from "popularization" a stock in which a specialist is registered, e.g., making recommendations and providing research coverage.

• *Rule 950(i) and its Commentary extend the prohibitions contained in Rule 186 to the trading of options contracts.*

• Rule 950(k) extends certain of the above prohibitions contained in Rule 190 and its Commentary to the trading of option contracts.

• *Rule 950(n) extends certain of the prohibitions contained in Rule 170 and its Commentary to the trading of options contracts.*

Exchange Rule 193 provides a means by which an affiliated upstairs firm may obtain an exemption from the restrictions discussed above. This exemption is only available to an affiliated upstairs firm which obtains prior Exchange approval for procedures restricting the flow of material nonpublic information between it and its affiliated specialist, i.e., a "Chinese Wall". These guidelines set forth, at a minimum, the steps an affiliated upstairs firm must undertake to seek to qualify for exemptive relief. Any firm that does not obtain Exchange approval of its procedures in accordance with these guidelines will remain subject to the restrictions in the Rules set forth above.

* An "approved person" is an individual or corporation, partnership or other entity which controls a member of member organization, or which is engaged in the securities business and is under common control with, or controlled by, a member or member organization or which is the owner of a membership held subject to a special transfer agreement. (The term "approved person" is defined in Article I, Section Footnote 3(g) of the Exchange Constitution and the term "control" is defined by Exchange Definitional Rule 13.)

(b)–(f) No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, Exchange rules impose certain restrictions on an approved person [3] or a member organization that is affiliated with a specialist or specialist unit (collectively "specialist affiliates"). Amex Rule 193 provides specialist affiliates an exemption from various restrictions applicable to them, provided the specialist and its affiliates establish procedures to prevent the passage between them of corporate or market information that is material and non-public. The New York Stock Exchange ("NYSE") has rules that restrict the activities of persons affiliated with NYSE specialists that are very similar to the Amex restrictions, and the NYSE also has an exemption to these rules: NYSE Rule 98. Both exemptions were adopted at the same time [4] and both were intended to facilitate the entry of full-service investment firms into the specialist business.

NYSE Rule 98 and Amex Rule 193 are identical in many respects. They differ, however, in that the NYSE rule does but the Amex rule does not provide an exemption to the general rule that prohibits a specialist affiliate from being an officer or director of a company that is the issuer of a security in which the affiliated specialist is registered.[5] Since investment banks frequently have personnel serving as directors of private and public companies, the absence of an exemption from Amex Rules 186(a) and 950(i) may be a disincentive to investment banks establishing or

[3] An "approved person" is an individual, corporation, partnership, or other entity which controls a member or member organization, or which is engaged in the securities business and is under common control with, or controlled by a member or member organization, or which is the owner of a membership held subject to a special transfer agreement. *See* Amex Constitution, Article I, Section 3(g). For the definition of "control," *see* Amex Definitional Rule 13.

[4] *See* Securities Exchange Act Release No. 23768 (November 3, 1986), 51 FR 41183 (November 13, 1986) (approving SR–Amex–85–01 and SR–NYSE–85–25).

[5] NYSE Rule 460(b) provides that no member or his member organization or any other member, allied member, or approved person or officer or employee of the member organization shall be a director of a company if such member specializes in the stock of that company. Amex Rule 186(a) provides that no specialist or any member in his member organization, officer, employee, or approved person therein shall be an officer or director of a corporation which has a security admitted to trading on the Exchange in which security the specialist is registered. Amex Rule 950(i) provides that the provisions of Amex Rule 186 also apply to the trading of option contracts.

maintaining a specialist affiliate on the Exchange. Amex, accordingly, is proposing to conform its rules to those of the NYSE and provide an exemption to Rules 186(a) and 950(i) for specialist affiliates that establish Exchange-approved information barriers pursuant to Amex Rule 193.

Amex is also proposing technical corrections to Rule 193(c) to clarify the availability of the Rule 193 exemption with respect to Amex Rules 170 and 190 to the affiliates of options specialists.

2. Statutory Basis

Amex states that the proposed rule change is consistent with Section 6(b) of the Act [6] in general and furthers the objectives of Section 6(b)(5) [7] in particular in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by ensuring that there are no unnecessary disincentives to acting as a specialist on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex states that the proposed rule change will impose no burden on competition and will, in fact, tend to enhance competition by potentially eliminating a disincentive to acting as a specialist on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–01–08 and should be submitted by April 4, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–6322 Filed 3–13–01; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44049; File No. SR–Amex–01–13]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC To Extend the eQPriority Pilot Program for Six Months

March 7, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 [2] thereunder, notice is hereby given that on March 6, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Amex. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend for an additional six months Commentary .03 to Amex Rule 126 to continue a pilot program for processing electronically transmitted orders for the common stock of business corporations admitted to dealings on the Exchange ("eQPriority[sm]"). The text of the proposed rule change appears below. New text is in italics; deleted text is in brackets:

Rule 126, Commentary

* * * * *

.03. Orders Delivered Electronically to the Specialist. At all times other than an opening or a reopening (Rule 108) or a block sold at a "clean-up" price (Rule 155), a round lot, regular way order for the common stock of a business corporation admitted to dealings on the Exchange that is sent to the specialist electronically and is executable according to its terms in whole or in part shall be handled in the following manner. Upon receipt of the electronic order by the specialist's order book, the specialist shall announce the order to the crowd, and the order shall establish priority with respect to all other bids and offers *except with respect to bids and offers that already had established priority before the electronic order was represented in the crowd.* Once the specialist has announced the order, members who have bids or offers incorporated in the Amex Published Quote ("APQ") shall not be permitted to withdraw or modify their interest except to provide price improvement (i.e., an execution between the APQ) to the incoming order. Following the announcement of the order, the specialist and members in the crowd shall have a brief opportunity to provide price improvement to the incoming order. In the event that the incoming order is price improved but not entirely filled at the improved price, the sale shall not remove all bids and offers, and the incoming order shall retain priority over other bids and offers up to the full size of the APQ that was displayed at the time of the announcement of the order less any interest that provided price improvement to the order. In the event that the incoming order is larger than the size displayed in the APQ, the order shall be executed according to these procedures and any unfilled balance of the order shall be handled according to the Exchange's customary auction market processes.

This Commentary .03 will expire *on September 12, 2001.* [six months from

the date of SEC approval. The SEC approved this rule change on September 12, 2000.]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 12, 2000, the Commission approved the Exchange's eQPriority initiative on a six-month pilot basis.[3] eQPriority is intended to encourage persons to route marketable electronic orders to the Exchange by assuring them that orders sent to the specialist electronically will be filled either (i) at the Amex Published Quote ("APQ") up to the displayed size at the time the order is announced, or (ii) at an improved price. Amex believes that the program provides orders for stocks sent to the floor electronically with the optimal combination of speed, certainty of execution, and price improvement opportunities. eQPriority applies only to orders for common stock admitted to dealings; it is not available for orders for options, Exchange Traded Funds, or other Amex-listed securities. It also does not apply to openings and reopenings or to block trades executed at a "clean-up" price pursuant to Amex Rule 155. The eQPriority pilot program is scheduled to expire on March 12, 2001.

eQPriority works in the following manner. Once the specialist announces the electronic order, members may not withdraw or modify bids and offers incorporated into the APQ on the opposite side of the market from the incoming order *except* to provide price improvement. When an eQPriority order is executed in part at an improved price, the remainder of the order is executed at the APQ up to the number of shares then available (*i.e.*, the size of the APQ at the time the order was announced, less any shares that provided price improvement). The eQPriority order does not have to match with any other trading interest on the same side of the market. In the event that an eQPriority order is larger than the APQ at the time the order is announced, the order is filled up to the size of the APQ according to the eQPriority procedures, and the unexecuted balance is filled according to the Exchange's customary auction market processes.

The purpose of eQPriority is to provide incoming electronic orders with an execution at the displayed offer (or lower) in the case of an electronic buy order, or at the displayed bid (or higher) in the case of an electronic sell order. eQPriority is not intended to allow an incoming electronic order to obtain priority over orders that already have established priority in the market. The Exchange, therefore, is proposing a clarifying revision to the text of Commentary .03 to Ames Rule 126 to provide that an eQPriority order does not have priority over bids and offers that were announced prior to the time that the eQPriority order is represented. This clarification would apply only to situations where the market is quoted at the minimum price variation and is best illustrated by an example. Assume the market is quoted 20.00 to 20.01, 5000 × 5000, and the bid represents a limit order on the book. Further, assume that the specialist announces an eQPriority order to buy 1000, and that a broker in the crowd is willing to sell 1000 at 20. In this example, the limit order to buy on the book had established a bid of 20 prior to the representation of the eQPriority order. The booked limit order, consequently, would be filled by the 1000 shares sold by the broker at 20, and the eQPriority order would be filled at 20.01.

Amex is proposing to extend the eQPriority pilot program for another six months so that it can better assess the program.

2. Statutory Basis

Amex states that the proposed rule change is consistent with Section 6(b) of the Act[4] in general and furthers the objectives of Section 6(b)(5)[5] in particular in that it is designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest. Amex also states that the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers, and dealers, consistent with Section 6(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex states that the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Amex has stated that, because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative for 30 days from the date on which it was filed (or such shorter time as the Commission may designate) it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6)[7] thereunder. Amex provided the Commission with written notice of its intent to file the proposed rule change, along with a description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.[8] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Amex requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of filing. Pursuant to Rule 19b–4(f)(6)(iii) under the Act,[9] the Commission may designate a shorter time period by which a proposed rule change filed under Rule 19b–4(f)(6) may become operative, if such action is consistent with the protection of investors and the public interest. The Commission finds that waiving the 30-day pre-operative period is consistent with the protection of investors and the

[3] *See* Securities Exchange Act Release No. 43284 (September 12, 2000), 65 FR 57410 (September 22, 2000).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6).

[8] The Commission deems the filing of SR–Amex–01–09, which was withdrawn and replaced by the present submission (SR–Amex–01–13), to fulfill the five-day notice requirement.

[9] 17 CFR 240.19b–4(f)(6)(iii).

public interest. The Commission believes that the existing eQPriority pilot provides beneficial services to investors. Acceleration of the operative date will allow the pilot to continue without interruption and ensure that those benefits do not lapse. Accordingly, the Commission waives the 30-day pre-operative period, and the proposed rule change has become operative immediately.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–01–13 and should be submitted by April 4, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–6323 Filed 3–13–01; 8:45 am]

BILLING CODE 8010–01–M

[10] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44044; File No. SR–NASD–00–04]

Self-Regulatory Organizations; Notice of Filing of Amendment No. 5 to a Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Its Corporate Financing Rule

March 6, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 4, 2001, the National Association of Securities Dealers, Inc. ("NASD"), through its wholly-owned subsidiary, NASD Regulation, Inc. ("NASD Regulation"), filed with the Securities and Exchange Commission ("SEC" or "Commission") Amendment No. 5 [3] to the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. The proposed rule change, incorporating Amendment Nos. 1, 2, and 3, was published for comment in the **Federal Register** on April 11, 2000.[4] The Commission is publishing this notice to solicit comments on Amendment No. 5 from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In response to comments on the original proposal, NASD Regulation is proposing additional amendments to Rules 2710 and 2720 of the NASD's Conduct Rules. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets. The text of the proposed rule change is marked to show additions and deletions from the NASD Corporate Financing Rule as it currently exists. The discussion section of this notice, however, focuses on the changes made in Amendment No. 5. For an explanation of the original filing, see the release cited in footnote 4.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 4, filed December 11, 2000, amends the original filing and Amendment Nos. 1, 2, and 3 to respond to comments. Amendment No. 5 supersedes Amendment No. 4 in its entirety and makes certain technical corrections to the proposed rule change.

[4] *See* Securities Exchange Act Release No. 42619 (April 4, 2000), 65 FR 19409.

2710. Corporate Financing Rule—Underwriting Terms and Arrangements

(a) Definitions

(1) Issuer

The issuer of the securities offered to the public, any selling security holders offering securities to the public, any affiliate of the issuer or selling security holder, and the officers or general partners, directors, employees and security holders thereof[;].

(2) Net Offering Proceeds

Offering proceeds less all expenses of issuance and distribution[;].

(3) Offering Proceeds

Public offering price of all securities offered to the public, not including securities subject to any overallotment option, securities to be received by the underwriter and related persons, or securities underlying other securities[;].

(4) *Participating Member(s)*

Any NASD member that is participating in a public offering, any associated person of the member, any members of their immediate family, and any affiliate of the member.

(5) Participation or Participating in a Public Offering

Participation in the preparation of the offering or other documents, participation in the distribution of the offering on an underwritten, non-underwritten, or any other basis, furnishing of customer and/or broker lists for solicitation, or participation in any advisory or consulting capacity to the issuer related to the offering, but not the preparation of an appraisal in a savings and loan conversion or a bank offering or the preparation of a fairness opinion pursuant to SEC Rule 13e–3[; and].

[(5)] *(6)* Underwriter and Related Persons

[Includes underwriters,] *Consists of* underwriter's counsel, financial consultants and advisors, finders, [members of the selling or distribution group,] any *participating* member [participating in the public offering], and any [and all] other persons [associated with or] related to *any participating member* [and members of the immediate family of any of the aforementioned persons].

(b) Filing Requirements

(1)–(3) No change.

(4) Requirement for Filing

(A) Unless filed by the issuer, the managing underwriter, or another

member, a member that anticipates participating in a public offering of securities subject to this Rule shall file with the Association the documents and information with respect to the offering specified in subparagraphs (5) and (6) below:

(i) No later than one business day after [the filing of:] any such documents [with] *are filed with or submitted to:*

[(a)] *a.* The Commission; *or*

[(ii)] *b.* [with the] *Any* state securities commission *or other regulatory authority*; or

[(iii)] *(ii)* If not filed with or submitted to any regulatory authority, at least fifteen (15) business days prior to the anticipated [offering] date *on which offers will commence.*

(B) No [offering] *sales* of securities subject to this Rule shall commence unless:

(i) The documents and information specified in subparagraphs (5) and (6) below have been filed with and reviewed by the Association; and (ii) the Association has provided an opinion that it has no objections to the proposed underwriting and other terms and arrangements or an opinion that the proposed underwriting and other terms and arrangements are unfair and unreasonable. If the Association's opinion states that the proposed underwriting and other terms and arrangements are unfair and unreasonable, the member may file modifications to the proposed underwriting and other terms and arrangements for further review.

(C) No change.

(5) No change.

(6) Information Required to be Filed

(A) Any person filing documents *with the Association* pursuant to subparagraph (4) above shall provide the following information with respect to the offering:

(i)–(ii) No change.

(iii) a statement of the association or affiliation with any member of any officer, or director *of the issuer, of any* [or security holder] *beneficial owner* of [the issuer in an initial public offering of equity securities, and with respect to any other offering provide such information with respect to any officer, director or security holder of five percent] *5%* or more of any class of the issuer's securities, *and of any beneficial owner of the issuer's unregistered equity securities that were purchased during the 180-day period immediately preceding the required filing date of the public offering, except for purchases described in subparagraph (c)(3)(B)(v) below. This statement must identify* [to include]:

a. [the identity of] The person;

b. [the identity of] The member and whether such member is participating in any capacity in the public offering; and

c. The number of equity securities or the face value of debt securities owned by such person, the date such securities were acquired, and the price paid for such securities.

(iv) [A statement addressing the factors in subparagraphs (c)(4)(C) and (D), where applicable;]

[(v)] A detailed explanation of any other arrangement entered into during the [12-month] *180-day* period immediately preceding the *required* filing *date* of the *public* offering, which arrangement provides for the receipt of any item of value [and/]or the transfer of any warrants, options, or other securities from the issuer to the underwriter and related persons; [and]

(v) A statement demonstrating compliance with all of the criteria of an exception from underwriting compensation in subparagraph (d)(5) below, when applicable; and

(vi) A detailed explanation and any documents related to:

a. The modification of any *information or representation previously provided to the Association or of any* item of underwriting compensation[,] *; or*

b. Any new arrangement that provides for the receipt of any additional item of value by any participating member subsequent to the [review and approval of such compensation] *issuance of an opinion of no objections to the underwriting terms and arrangements* by the Association *and within 90 days immediately following the date of effectiveness or commencement of sales of the public offering.*

(B) No change.

(7)–(11) No change.

(c) Underwriting Compensation and Arrangements

(1) General

No member or person associated with a member shall participate in any manner in any public offering of securities in which the underwriting or other terms or arrangements in connection with or relating to the distribution of the securities, or the terms and conditions related thereto, are unfair or unreasonable.

(2) Amount of Underwriting Compensation

(A) No member or person associated with a member shall receive an amount of underwriting compensation in connection with a public offering [which] *that* is unfair or unreasonable and no member or person associated with a member shall underwrite or participate in a public offering of securities if the underwriting compensation in connection with the public offering is unfair or unreasonable.

(B)–(D) No change.

(E) The maximum amount of compensation (stated as a percentage of the dollar amount of the offering proceeds) [which] *that* is considered fair and reasonable generally will vary directly with the amount of risk to be assumed by [the underwriter and related persons] *participating members* and inversely with the dollar amount of the offering proceeds.

(3) Items of [Compensation] *Value*

(A) For purposes of determining the amount of underwriting compensation received or to be received by the underwriter and related persons pursuant to subparagraph *(c)*(2) above, the following items and all other items of value received or to be received by the underwriter and related persons in connection with or related to the distribution of the *public* offering, as determined pursuant to [sub]paragraph [(4)] *(d)* below shall be included:

(i)–(iii) No change.

(iv) Finder's fees, *whether in the form of cash, securities or any other item of value:*

(v) Wholesaler's fees;

(vi) Financial consulting and advisory fees, whether in the form of cash, securities, or any other item of value;

(vii) *Common or preferred* stock, options, warrants, and other *equity* securities, *including debt securities convertible to or exchangeable for equity securities,* [including securities] received [as underwriting compensation, for example]:

a. [in connection with a] *For acting as* private placement *agent* [of securities] for the issuer;

b. For providing or arranging *a loan, credit facility,* [bridge financing] *merger or acquisition services, or any other service* for the issuer;

[c. As a finder's fee;]

[d. For consulting services to the issuer; and]

[e.] *c.* [securities purchased] *As an investment* in a private placement made by the issuer; *or*

d. At the time of the public offering;

(viii) Special sales incentive items [in compliance with subparagraph (6)(B)(xi)];

(ix) Any right of first refusal provided to [the underwriter and related persons] *any participating member* to underwrite or participate in future public offerings, private placements or other financings,

which will have a compensation value of 1% of the offering proceeds or that dollar amount contractually agreed to by the issuer and underwriter to waive or terminate the right of first refusal;

(x) No change.

(xi) commissions, expense reimbursements, or other compensation to be received by the underwriter and related persons as a result of the exercise or conversion, within twelve [(12)] months following the effective date of the offering, of warrants, options, convertible securities, or similar securities distributed as part of the *public* offering; *and*

(xii) fees of a qualified independent underwriter[; and].

[(xiii) compensation, including expense reimbursements, paid in the six (6) months prior to the initial or amended filing of the prospectus or similar documents to any member or person associated with a member for a public offering that was not completed.]

(B) *Notwithstanding subparagraph (c)(3)(A) above, the following shall not be considered an item of value:*

(i) [E] expenses customarily borne by an issuer, such as printing costs; SEC, "blue sky" and other registration fees; Association filing fees; and accountant's fees, [shall be excluded from underwriter's compensation] whether or not paid through [an underwriter] *a participating member;*

(ii) Compensation, including expense reimbursements, previously paid to any member in connection with a proposed public offering that was not completed, if the member does not participate in the revised public offering;

(iii) Cash compensation for acting as placement agent for a private placement or for providing a loan, credit facility, or for services in connection with a merger/acquisition;

(iv) Listed securities purchased in public market transactions;

(v) Securities acquired through any stock bonus, pension, or profit-sharing plan that qualifies under Section 401 of the Internal Revenue Code; and

(vi) Securities acquired by an investment company registered under the Investment Company Act of 1940.

[(4)] *(d)* Determination of Whether [Compensation Is Received in Connection With the Offering] *Items of Value Are Included In Underwriting Compensation*

[(A)] *(1) Pre-Offering Compensation*

All items of value received [or to be received] *and all arrangements entered into for the future receipt of an item of value* by the underwriter and related persons during the [twelve (12) month] period *commencing 180 days* immediately preceding the *required* filing *date* of the registration statement or similar document *pursuant to subparagraph (b)(4) above*[, and at the time of and subsequent to] *until the date of effectiveness or commencement of sales of* the public offering[,] will be [examined to determine whether such items of value are] *considered to be* underwriting compensation in connection with the *public* offering [and, if received during the six (6) month period immediately preceding the filing of the registration statement or similar document, will be presumed to be underwriting compensation received in connection with the offering, provided, however, that such presumption may be rebutted on the basis of information satisfactory to the Association to support a finding that the receipt of an item is not in connection with the offering and shall not include cash discounts or commissions received in connection with a prior distribution of the issuer's securities].

(2) Undisclosed and Post-Offering Compensation

All items of value received and all arrangements entered into for the future receipt of an item of value by any participating member that are not disclosed to the Association prior to the date of effectiveness or commencement of sales of a public offering, including items of value received subsequent to the public offering, are subject to post-offering review to determine whether such items of value are, in fact, underwriting compensation for the public offering.

[(B) Items of value received by an underwriter and related person more than twelve (12) months immediately preceding the date of filing of the registration statement or similar document will be presumed not to be underwriting compensation. However, items received prior to such twelve (12) month period may be included as underwriting compensation on the basis of information to support a finding that receipt of the item is in connection with the offering.]

[(C) For purposes of determining whether any item of value received or to be received by the underwriter and related persons is in connection with or related to the distribution of the public offering, the following factors, as well as any other relevant factors and circumstances, shall be considered:]

[(i) The length of time between the date of filing of the registration statement or similar document and:]

[a. The date of the receipt of the item of value;]

[b. The date of any contractual agreement for services for which the item of value was or is to be received; and]

[c. The date the performance of the service commenced, with a shorter period of time tending to indicate that the item is received in connection with the offering;]

[(ii) The details of the services provided or to be provided for which the item of value was or is to be received;]

[(iii) The relationship between the services provided or to be provided for which the item of value was or is to be received and:]

[a. The nature of the item of value;]

[b. The compensation value of the item; and]

[c. The proposed public offering;]

[(iv) The presence or absence of arm's length bargaining or the existence of any affiliate relationship between the issuer and the recipient of the item of value, with the absence of arm's length bargaining or the presence of any affiliation tending to indicate that the item of value is received in connection with the offering.]

[(D) For purposes of determining whether securities received or to be received by the underwriter and related persons are in connection with or related to the distribution of the public offering, the factors in subparagraph (C) above and the following factors shall be considered:]

[(i) Any disparity between the price paid and the offering price or the market price, if a bona fide independent market exists at the time of acquisition, with a greater disparity tending to indicate that the securities constitute compensation;]

[(ii) The amount of risk assumed by the recipient of the securities, as determined by:]

[a. The restrictions on exercise and resale;]

[b. The nature of the securities (e.g., warrant, stock, or debt); and]

[c. The amount of securities, with a larger amount of readily marketable securities without restrictions on resale or a warrant for securities tending to indicate that the securities constitute compensation; and]

[(iii) The relationship of the receipt of the securities to purchases by unrelated purchasers on similar terms at approximately the same time, with an absence of similar purchases tending to indicate that the securities constitute compensation.]

[(E) Notwithstanding the provisions of subparagraph (3)(A)(vi) above, financial consulting and advisory fees may be excluded from underwriting compensation upon a finding by the

Association, on the basis of information satisfactory to it, that an ongoing relationship between the issuer and the underwriter and related person has been established at least twelve (12) months prior to the filing of the registration statement or similar document or that the relationship, if established subsequent to that time, was not entered into in connection with the offering, and that actual services have been or will be rendered which were not or will not be in connection with or related to the offering.]

(3) Date of Receipt of Securities

Securities of the issuer acquired by the underwriter and related persons will be considered to be received for purposes of subparagraphs (d)(1) and (d)(5) as of the date of the:

(A) Closing of a private placement, if the securities were purchased in or received for arranging a private placement; or

(B) Execution of a written contract with detailed provisions for the receipt of securities as compensation for a loan, credit facility, or put option; or

(C) transfer of beneficial ownership of the securities, if the securities were received as compensation for consulting or advisory services, merger or acquisition services, acting as a finder, or for any other service.

(4) Definitions

For purposes of subparagraph (d)(5) below, the following terms will have the meanings stated below.

(A) An entity:

(i) Includes a group of legal persons that either:

a. Are contractually obligated to make co-investments and have previously made at least one such investment; or

b. Have filed a Form 13D or 13G with the SEC that identifies the legal persons as members of a group who have agreed to act together for the purpose of acquiring, holding, voting or disposing of equity securities of an issuer in connection with a previous investment; and

(ii) May make its investment or loan through a wholly owned subsidiary (except when the entity is a group of legal persons).

(B) An institutional investor is any individual or legal person that has at least $50 million invested in securities in the aggregate in its portfolio or under management, including investments held by its wholly owned subsidiaries; provided that no participating member has an equity interest in or manages or otherwise directs the institutional investor's investments.

(C) A right of preemption means the right of a shareholder to acquire additional securities in the same company in order to avoid dilution when additional securities are issued, pursuant to:

(i) Any option, shareholder agreement, or other contractual right entered into at the time of a purchase of securities;

(ii) The terms of the security purchased;

(iii) The issuer's charter or by-laws; or

(iv) The domestic law of a foreign jurisdiction that regulates the issuance of the securities.

(D) "Total equity securities" means the aggregate of the total shares of:

(i) Common stock outstanding of the issuer; and

(ii) Common stock of the issuer underlying all convertible securities outstanding that convert without the payment of any additional consideration.

(5) Exceptions From Underwriting Compensation

Notwithstanding subparagraph (d)(1) above, the following items of value are excluded from underwriting compensation (but are subject to the lock-up restriction in subparagraph (g)(1) below), provided that the member does not condition its participation in the public offering on an acquisition of securities under an exception and any securities purchased are purchased at the same price and with the same terms as the securities purchased by all other investors.

(A) Purchases and Loans by Certain Entities—Securities of the issuer purchased in a private placement or received as compensation for a loan or credit facility before the required filing date of the public offering pursuant to subparagraph (b)(4) above by certain entities if:

(i) Each entity:

a. Either:

1. Manages capital contributions or commitments of $100 million or more, at least $75 million of which has been contributed or committed by persons that are not participating members;

2. Manages capital contributions or commitments of $25 million or more, at least 75% of which has been contributed or committed by persons that are not participating members;

3. Is an insurance company as defined in Section 2(a)(13) of the Securities Act or is a foreign insurance company that has been granted an exemption under this Rule; or

4. Is a bank as defined in Section 3(a)(6) of the Act or is a foreign bank that has been granted an exemption under this Rule; and

b. Is a separate and distinct legal person from any member and is not registered as a broker/dealer;

c. Makes investments or loans subject to the evaluation of individuals who have a contractual or fiduciary duty to select investments and loans based on the risks and rewards to the entity and not based on opportunities for the member to earn investment banking revenues;

d. Does not participate directly in investment banking fees received by any participating member for underwriting public offerings; and

e. Has been primarily engaged in the business of making investments in or loans to other companies; and

(ii) The total amount of securities received by all entities related to each member does not exceed 10% of the issuer's total equity securities, calculated immediately following the transaction.

(B) Investments In and Loans to Certain Issuers—Securities of the issuer purchased in a private placement or received as compensation for a loan or credit facility before the required filing date of the public offering pursuant to subparagraph (b)(4) above by certain entities if:

(i) Each entity:

a. Manages capital contributions or commitments of at least $50 million;

b. Is a separate and distinct legal person from any member and is not registered as a broker/dealer;

c. Does not participate directly in investment banking fees received by the member for underwriting public offerings; and

d. Has been primarily engaged in the business of making investments in or loans to other companies; and

(ii) Institutional investors beneficially own at least 33% of the issuer's total equity securities, calculated immediately prior to the transaction;

(iii) The transaction was approved by a majority of the issuer's board of directors and a majority of any institutional investors, or the designees of institutional investors, that are board members; and

(iv) The total amount of securities received by all entities related to each member does not exceed 10% of the issuer's total equity securities, calculated immediately following the transaction.

(C) Private Placements With Institutional Investors—Securities of the issuer purchased in, or received as placement agent compensation for, a private placement before the required filing date of the public offering pursuant to subparagraph (b)(4) above if:

(i) institutional investors purchase at least 51% of the "total offering" (comprised of the total number of securities sold in the private placement and received or to be received as placement agent compensation by any member);

(ii) an institutional investor was the lead negotiator or, if the terms were not negotiated, was the lead investor with the issuer to establish or approve the terms of the private placement; and

(iii) underwriters and related persons did not, in the aggregate, purchase or receive as placement agent compensation more than 20% of the "total offering" (excluding purchases by any entity qualified under subparagraph (d)(5)(A) above).

(D) Acquisitions and Conversions to Prevent Dilution—Securities of the issuer if:

(i) The securities were acquired as the result of:

a. A right of preemption that was granted in connection with securities that were purchased either:

1. In a private placement and the securities are not deemed by the Association to be underwriting compensation; or

2. From a public offering or the public market; or

b. A stock-split or a pro-rata rights or similar offering; or

c. The conversion of securities that have not been deemed by the Association to be underwriting compensation; and

(ii) The only terms of the purchased securities that are different from the terms of securities purchased by other investors are pre-existing contractual rights that were granted in connection with a prior purchase;

(iii) The opportunity to purchase in a rights offering or pursuant to a right of preemption, or to receive additional securities as the result of a stock-split or conversion was provided to all similarly situated securityholders; and

(iv) The amount of securities purchased or received did not increase the recipient's percentage ownership of the same generic class of securities of the issuer or of the class of securities underlying a convertible security calculated immediately prior to the investment, except in the case of conversions.

(E) Purchases Based On A Prior Investment History—Purchases of securities of the issuer if:

(i) The amount of securities purchased did not increase the purchaser's percentage ownership of the same generic class of securities of the issuer or of the class of securities underlying a convertible security calculated immediately prior to the investment; and

(ii) An initial purchase of securities of the issuer was made at least two years and a second purchase was made more than 180 days before the required filing date of the public offering pursuant to subparagraph (b)(4) above.

(F) Financial Consulting and Advisory Arrangements—Compensation received by a financial consultant or advisor if:

(i) The consulting/advisory relationship was established pursuant to a written and executed agreement entered into more than one year before the required filing date of the public offering pursuant to subparagraph (b)(4) above;

(ii) Any securities received or to be received do not exceed the amount and type specified in the agreement;

(iii) Substantive services were provided on an ongoing basis to the issuer during the one-year period; and

(iv) The consultant/advisor has routinely provided similar services to other companies.

[(5)] *(e)* Valuation of Non-Cash Compensation

For purposes of determining the value to be assigned to securities received as underwriting compensation, the following criteria and procedures shall be applied[:].

[(A) No underwriter and related person may receive a security or a warrant for a security as compensation in connection with the distribution of a public offering that is different than the security to be offered to the public unless the security received as compensation has a bona fide independent market, provided, however, that: (i) In exceptional and unusual circumstances, upon good cause shown, such arrangement may be permitted by the Association; and (ii) in an offering of units, the underwriter and related persons may only receive a warrant for the unit offered to the public where the unit is the same as the public unit and the terms are no more favorable than the terms of the public unit.]

(1) Limitation on Securities Received Upon Exercise or Conversion of Another Security

An underwriter and related person may not receive a security (including securities in a unit), a warrant for a security, or a security convertible into another security as underwriting compensation in connection with a public offering unless:

(A) the security received or the security underlying the warrant or convertible security received is identical to the security offered to the public or to a security with a bona fide independent market; or

(B) the security can be accurately valued, as required by subparagraph (f)(2)(I) below.

[(B)] *(2) Valuation of Securities That Do Not Have an Exercise or Conversion Price*

[s] Securities that [are not options, warrants or convertible securities] *do not have an exercise or conversion price* shall *have a compensation value* [be valued on the basis of] *based on:*

[(i)] *(A)* The difference between [the per security cost and]*:*

(i) Either the market price per security on the date of acquisition, [where a] *or, if no* bona fide independent market exists for the security, [or] the [proposed (and actual)] public offering price per security*; and*

(ii) The per security cost;

[(ii)] *(B)* Multiplied by the number of securities received or to be received as underwriting compensation;

[(iii)] *(C)* Divided by the offering proceeds; and

[(iv)] *(D)* Multiplied by one hundred [(100)].

(3) Valuation of Securities That Have an Exercise or Conversion Price

[(C) o] *O*ptions, warrants or convertible securities *that have an exercise or conversion price ("warrants")* shall [be valued on the basis of the following formula] *have a compensation value based on:*

[(i)] *(A)* The [proposed (and actual)] public offering price per security multiplied by .65 [(65%)];

[(ii)] *(B)* Minus the [difference between] *resultant of* the exercise or conversion price per [security] *warrant* [and] *less* either:

(i) *The* market price per security on the date of acquisition, where a bona fide independent market exists for the security, or

(ii) The [proposed (and actual)] public offering price per security;

[(iii)] *(C)* Divided by two [(2)];

[(iv)] *(D)* Multiplied by the number of *securities underlying the* warrants[, options, and convertible securities received or to be received as underwriting compensation];

[(v)] *(E)* Less the total price paid for the [securities] *warrants;*

[(vi)] *(F)* Divided by the offering proceeds; and

[(vii)] *(G)* Multiplied by one hundred [(100).];

(H) Provided, however, that such warrants shall have a compensation value of at least .2% of the offering proceeds for each amount of securities that is up to 1% of the securities being

offered to the public (excluding securities subject to an overallotment option).

(4) Valuation Discount For Securities With a Longer Resale Restriction

[(D) a lower value equal to 80% and 60% of the calculated value shall be assigned if securities, and where relevant, underlying securities, are or will be restricted from sale, transfer, assignment or other disposition for a period of one and two years, respectively, beyond the one-year period of restriction required by subparagraph (7)(A)(i) below.]

A lower value equal to 10% of the calculated value shall be deducted for each 180-day period that the securities or underlying securities are restricted from sale or other disposition beyond the 180-day period of the lock-up restriction required by subparagraph (g)(1) below. The transfers permitted during the lock-up restriction by subparagraphs (g)(2)(A)(iii)-(iv) are not available for such securities.

[(6)] *(f)* Unreasonable Terms and Arrangements

[(A)] *(1) General*

No member or person associated with a member shall participate in any manner in a public offering of securities after any arrangement proposed in connection with the public offering, or the terms and conditions relating thereto, has been determined to be unfair or unreasonable pursuant to this Rule or inconsistent with any By-Law or any Rule or regulation of the Association.

[(B)] *(2) Prohibited Arrangements*

Without limiting the foregoing, the following terms and arrangements, when proposed in connection with [the distribution of] a public offering of securities, shall be unfair and unreasonable[:].

[(i)] *(A)* [a]*A*ny accountable expense allowance granted by an issuer to the underwriter and related persons [which] *that* includes payment for general overhead, salaries, supplies, or similar expenses of the underwriter incurred in the normal conduct of business[;].

[(ii)] *(B)* [a]*A*ny non-accountable expense allowance in excess of [three (3) percent;] *3% of offering proceeds.*

[(iii)] *(C)* [a]*A*ny payment of commissions or reimbursement of expenses directly or indirectly to the underwriter and related persons prior to commencement of the public sale of the securities being offered, except a reasonable advance against out-of-pocket accountable expenses actually anticipated to be incurred by the underwriter and related persons, which advance is reimbursed to the issuer to the extent not actually incurred[;].

[(iv)] *(D)* [t]*T*he payment of any compensation by an issuer to a member or person associated with a member in connection with an offering of securities [which] *that* is not completed according to the terms of agreement between the issuer and underwriter, except those negotiated and paid in connection with a transaction that occurs in lieu of the proposed offering as a result of the efforts of the underwriter and related persons and provided, however, that the reimbursement of out-of-pocket accountable expenses actually incurred by the member or person associated with a member shall not be presumed to be unfair or unreasonable under normal circumstances[;].

[(v)] *(E)* [a]*A*ny "tail fee" arrangement granted to the underwriter and related persons that has a duration of more than two [(2)] years from the date the member's services are terminated, in the event that the offering is not completed in accordance with the agreement between the issuer and the underwriter and the issuer subsequently consummates a similar transaction, except that a member may demonstrate on the basis of information satisfactory to the Association that an arrangement of more than two [(2)] years is not unfair or unreasonable under the circumstances.

[(vi)] *(F)* [a]*A*ny right of first refusal provided to the underwriter or related persons to underwrite or participate in future public offerings, private placements or other financings [which] *that:*

[a.] *(i)* Has a duration of more than three [(3)] years from the [effective] date *of effectiveness or commencement of* sales of the *public* offering; or

[b.] *(ii)* Has more than one opportunity to waive or terminate the right of first refusal in consideration of any payment or fee[;].

[(vii)] *(G)* [a]*A*ny payment or fee to waive or terminate a right of first refusal regarding future public offerings, private placements or other financings provided to the underwriter and related persons [which] *that:*

[a.]*(i)* Has a value in excess of the greater of [one percent (] 1% [)] of the offering proceeds in the public offering where the right of first refusal was granted (or an amount in excess of [one percent] *1%* if additional compensation is available under the compensation guideline of the original offering) or [five percent (] 5% [)] of the underwriting discount or commission paid in connection with the future financing (including any overallotment option that may be exercised), regardless of whether the payment or fee is negotiated at the time of or subsequent to the original public offering; or

[b.]*(ii)* Is not paid in cash[;].

[(viii)] *(H) The terms or the exercise of the terms of an agreement for* the receipt by the underwriter and related persons of underwriting compensation consisting of any option, warrant or convertible security [which] *that:*

[a.] *(i)* Is exercisable or convertible more than five [(5)] years from the effective date of the offering;

[b. Is exerciseable or convertible at a price below either the public offering price of the underlying security or, if a bona fide independent market exists for the security or the underlying security, the market price at the time of receipt;]

[c.] *(ii)* Is not in compliance with subparagraph [(5)(A)] *(e)(1)* above;

[d.] *(iii)* Has more than one demand registration right at the issuer's expense;

[e.] *(iv)* Has a demand registration right with a duration of more than five [(5)] years from the [effective] date *of effectiveness or the commencement of sales* of the *public* offering;

[f.] *(v)* Has a piggyback registration right with a duration of more than seven [(7)] years from the [effective] date *of effectiveness or the commencement of sales* of the *public* offering;

[g.] *(vi)* Has anti-dilution terms [designed to provide] *that allow* the underwriter and related persons [with disproportionate rights, privileges and economic benefits which are not provided to the purchasers of the securities offered to the public (or the public shareholders, if in compliance with subparagraph (5)(A) above)] *to receive more shares or to exercise at a lower price than originally agreed upon at the time of the public offering, when the public shareholders have not been proportionally affected by a stock split, stock dividend, or other similar event; or*

[h.] *(vii)* Has anti-dilution terms [designed to provide for the receipt or accrual of] *that allow the underwriter and related persons to receive or accrue* cash dividends prior to the exercise or conversion of the security[; or].

[i. Is convertible or exercisable or otherwise is on terms more favorable

than the terms of the securities being offered to the public;]

[(ix)] *(I)* [t]*T*he receipt by the underwriter and related persons of any item of compensation for which a value cannot be determined at the time of the offering[;].

[(x)] *(J)* [w]*W*hen proposed in connection with the distribution of a public offering of securities on a "firm commitment" basis, any over allotment option providing for the over allotment of more than [fifteen (15) percent] *15%* of the amount of securities being offered, computed excluding any securities offered pursuant to the over allotment option[;].

[(xi) stock numerical limitation. The receipt by the underwriter and related persons of securities which constitute underwriting compensation in an aggregate amount greater than ten (10) percent of the number or dollar amount of securities being offered to the public, which is calculated to exclude:]

[a. any securities deemed to constitute underwriting compensation;]

[b. any securities issued pursuant to an overallotment option;]

[c. in the case of a "best efforts" offering, any securities not actually sold; and]

[d. any securities underlying warrants, options, or convertible securities which are part of the proposed offering, except where acquired as part of a unit;]

[(xii)] *(K)* [t]*T*he receipt by a member or person associated with a member, pursuant to an agreement entered into at any time before or after the effective date of a public offering of warrants, options, convertible securities or units containing such securities, of any compensation or expense reimbursement in connection with the exercise or conversion of any such warrant, option, or convertible security in any of the following circumstances:

[a.]*(i)* The market price of the security into which the warrant, option, or convertible security is exercisable or convertible is lower than the exercise or conversion price;

[b.](*ii*) The warrant, option, or convertible security is held in a discretionary account at the time of exercise or conversion, except where prior specific written approval for exercise or conversion is received from the customer;

[c.](*iii*) The arrangements whereby compensation is to be paid are not disclosed:

[1.]*a.* In the prospectus or offering circular by which the warrants, options, or convertible securities are offered to the public, if such arrangements are contemplated or any agreement exists as to such arrangements at that time, and

[2.]*b.* In the prospectus or offering circular provided to security holders at the time of exercise or conversion; or

[d.](*iv*) The exercise or conversion of the warrants, options or convertible securities is not solicited by the underwriter or related person, provided however, that any request for exercise or conversion will be presumed to be unsolicited unless the customer states in writing that the transaction was solicited and designates in writing the broker/dealer to receive compensation for the exercise or conversion[;].

[(xiii)] *(L)* [f]*F*or a member or person associated with a member to accept, directly or indirectly, any non-cash sales incentive item including, but not limited to, travel bonuses, prizes and awards, from an issuer or an affiliate thereof in excess of $100 per person per issuer annually. Notwithstanding the foregoing, a member may provide non-cash sales incentive items to its associated persons provided that no issuer, or an affiliate thereof, including specifically an affiliate of the member, directly or indirectly participates in or contributes to providing such non-cash sales incentive[; or].

[(xiv)] *(M)* [f]*F*or a member to participate with an issuer in the public distribution of a non-underwritten issue of securities if the issuer hires persons primarily for the purpose of distributing or assisting in the distribution of the issue, or for the purpose of assisting in any way in connection with the underwriting, except to the extent in compliance with 17 C.F.R. § 240.3a4–1 and applicable state law.

[(xv)] *N* [f] *F*or a member or person associated with a member to participate in a public offering of real estate investment trust securities, as defined in Rule 2340(c)(4), unless the trustee will disclose in each annual report distributed to investors pursuant to Section 13(a) of the Act a per share estimated value of the trust securities, the method by which it was developed, and the date of the data used to develop the estimated value.

[(C) In the event that the underwriter and related persons receive securities deemed to be underwriting compensation in an amount constituting unfair and unreasonable compensation pursuant to the stock numerical limitation in subparagraph (B)(ix) above, the recipient shall return any excess securities to the issuer or the source from which received at cost and without recourse, except that in exceptional and unusual circumstances, upon good cause shown, a different arrangement may be permitted.]

[(7)] *(g) Lock-Up* Restriction[s] on Securities

[(A) No member or person associated with a member shall participate in any public offering which does not comply with the following requirements:]

[(i) Securities deemed to be underwriting compensation shall not be sold, transferred, assigned, pledged or hypothecated by any person, except as provided in subparagraph (B) below, for a period of (a) one year following the effective date of the offering. However, securities deemed to be underwriting compensation may be transferred to any member participating in the offering and the bona fide officers or partners thereof and securities which are convertible into other types of securities or which may be exercised for the purchase of other securities may be so transferred, converted or exercised if all securities so transferred or received remain subject to the restrictions specified herein for the remainder of the initially applicable time period;]

[(ii) Certificates or similar instruments representing securities restricted pursuant to subparagraph (i) above shall bear an appropriate legend describing the restriction and stating the time period for which the restriction is operative; and]

[(iii) Securities to be received by a member as underwriting compensation shall only be issued to a member participating in the offering and the bona fide officers or partners thereof.]

(1) Lock-Up Restriction

Any common or preferred stock, options, warrants, and other equity securities of the issuer, including debt securities convertible to or exchangeable for equity securities of the issuer, that are beneficially owned by any person that is an underwriter and related person on the date of effectiveness or commencement of sales of the public offering shall not be sold during the offering or sold, transferred, assigned, pledged, or hypothecated, or be the subject of any hedging, short sale, derivative, put, or call transaction that would result in the effective economic disposition of the securities by any person for a period of 180 days immediately following the date of effectiveness or commencement of sales of the public offering, except as provided in subparagraph (g)(2) below.

(2) Exceptions to Lock-Up Restriction

[(B) The provisions of subparagraph (A) notwithstanding:]

Notwithstanding subparagraph (g)(1) above, the following shall not be prohibited:

(A) The transfer of any security:

(i) By operation of law or by reason of reorganization of the issuer [shall not be prohibited.];

(ii) To any member participating in the offering and the officers or partners thereof, if all securities so transferred remain subject to the lock-up restriction in subparagraph (g)(1) above for the remainder of the time period;

[(C) Venture capital restrictions. When a member participates in the initial public offering of an issuer's securities, such member or any officer, director, general partner, controlling shareholder or subsidiary of the member or subsidiary of such controlling shareholder or a member of the immediate family of such persons, who beneficially owns any securities of said issuer at the time of filing of the offering, shall not sell such securities during the offering or sell, transfer, assign or hypothecate such securities for ninety (90) days following the effective date of the offering unless:]

[(i) The price at which the issue is to be distributed to the public is established at a price no higher than that recommended by a qualified independent underwriter who does not beneficially own 5% or more of the outstanding voting securities of the issuer, who shall also participate in the preparation of the registration statement and the prospectus, offering circular, or similar document and who shall exercise the usual standards of "due diligence" in respect thereto; or]

[(ii)] *(iii)* If the aggregate amount of [such] securities *of the issuer* held by [such a member and its related persons enumerated above would] *the underwriter or related person do* not exceed 1% of the securities being offered;

(iv) That is beneficially owned on a pro-rata basis by all equity owners of an investment fund, provided that no participating member manages or otherwise directs investments by the fund and participating members in the aggregate do not own more than 10% of the equity in the fund;

(v) That is not an item of value under subparagraphs (c)(3)(B)(iv)–(vi) above;

(vi) That was previously but is no longer subject to the lock-up restriction in subparagraph (g)(1) above in connection with a prior public offering; or

(vii) That was acquired before the period commencing 180 days immediately preceding the required filing date pursuant to subparagraph (b)(4) above and:

a. The class of security qualifies as an "actively traded security" under SEC Rule 101(c)(1) of Regulation M as of the date of effectiveness or commencement of sales of the public offering; or

b. Is beneficially owned by a person that is not a participating member; or

(B) The exercise or conversion of any security, if all securities received remain subject to the lock-up restriction in subparagraph (g)(1) above for the remainder of the time period.

[(8)] *(h)* [Conflicts of Interest] Proceeds Directed to a Member[:]

(1) Compliance With Rule 2720

No member shall participate in a public offering of an issuer's securities where more than [ten (10) percent] *10%* of the net offering proceeds, not including underwriting compensation, are intended to be paid to [members participating in the distribution of the offering or associated or affiliated persons of such members, or members of the immediate family of such persons] *participating members*, unless the price at which an equity issue or the yield at which a debt issue is to be distributed to the public is established pursuant to Rule 2720(c)(3).

[(A)] *(2) Disclosure*

All offerings included within the scope of [this] subparagraph [(8)] *(h)(1)* shall disclose in the underwriting or plan of distribution section of the registration statement, offering circular or other similar document that the offering is being made pursuant to the provisions of this subparagraph and, where applicable, the name of the member acting as qualified independent underwriter, and that such member is assuming the responsibilities of acting as a qualified independent underwriter in pricing the offering and conducting due diligence.

[(B)] *(3) Exception From Compliance*

The provisions of [this] subparagraphs [(8)] (h)*(1) and (2)* shall not apply to:

[(i)] *(A)* An offering otherwise subject to the provisions of Rule 2720;

[(ii)] *(B)* An offering of securities exempt from registration with the Commission under Section 3(a)(4) of the Securities Act of 1933;

[(iii)] *(C)* An offering of a real estate investment trust as defined in Section 856 of the Internal Revenue Code; or

[(iv)] *(D)* An offering of securities subject to Rule 2810, unless the net offering proceeds are intended to be paid to the above persons for the purpose of repaying loans, advances or other types of financing utilized to acquire an interest in a pre-existing company.

[(d)] *(i)* Exemptions

Pursuant to the Rule 9600 Series, the [Association may exempt a member or person associated with a member from the provisions of this Rule] *staff*, for good cause shown *after taking into consideration all relevant factors, may conditionally or unconditionally grant an exemption from any provision of this Rule to the extent that such exemption is consistent with the purposes of the Rule, the protection of investors, and the public interest.*

2720. Distribution of Securities of Members and Affiliates—Conflicts of Interest

(a) General

No Change.

(b) Definitions

(1)–(8) No Change.

(9) Immediate family—*the* parents, mother-in-law, father-in-law, [husband or wife] *spouse*, brother or sister, brother-in-law or sister-in-law, son-in-law or daughter-in-law, and children *of an employee or associated person of a member, except any person other than the spouse and children who does not live in the same household as, have a business relationship with, provide material support to, or receive material support from the employee or associated person of a member. In addition, the immediate family includes* [or] any other person who [is supported, directly or indirectly, to a material extent by] *either lives in the same household as, provides material support to, or receives material support from* an employee [of,] or *associated* person [associated, with] *of* a member.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 11, 2000 and February 1, 2001, NASD Regulation filed

proposed amendments to the Corporate Financing Rule ("Rule") that were intended to modernize and simplify the Rule ("original rule filing" or "original proposal"). The original rule filing contained an objective standard that members and the staff could follow to determine whether any "items of value," such as fees and securities, provided by an issuer to underwriters and related persons should be included in the calculation of underwriting compensation under the Rule. Under this standard, all items of value received by underwriters and related persons from 180 days before the filing of a registration statement until the date of effectiveness or commencement of sales of the public offering ("180-day review period") would be deemed to be underwriting compensation, unless the items were received in a transaction that met one of four exceptions. The exceptions were intended to establish transaction criteria that would distinguish between securities acquired as bona fide investments from securities acquired as underwriting compensation.

In addition, the original rule filing proposed a 180-day lock-up restriction on sales of any securities of the issuer held by any person covered by the definition of underwriter and related person at the time of the public offering, with certain exceptions. The original rule filing also proposed to delete the 10% limitation on the amount of securities deemed to be underwriting compensation, known as the Stock Numerical Limitation, and the prohibition on warrants having an exercise price below the public offering price. In addition, the original rule filing proposed to amend provisions that had become problematic or unnecessary as applied to current industry practices or particular types of issuers.

The SEC published the original proposal for comment [5] and received 14 comment letters.[6] Commenters generally supported the original proposal, but requested additional changes and clarifications. In particular, commenters believed that the proposal did not go far enough in excluding investments by affiliates of members in light of the creation of large financial institutions that include commercial and investment banking and insurance operations.

Amendment No. 5 responds to the comments received. Following is a description of proposed amendments to the original proposal that: (i) Expand the circumstances under which purchases and other acquisitions of the issuer's securities by members and their affiliates will not be considered underwriting compensation; (ii) incorporate increased flexibility in the Rule while maintaining the objective review standards of the original proposal; (iii) clarify parts of the original proposal; and (iv) impose a minimum compensation value on warrants deemed to be underwriting compensation ("amended proposal"). All proposed amendments are in response to comments, except as indicated and for non-substantive and conforming changes to the Rule. In addition, the following description addresses, where appropriate, comments that are opposed to provisions retained in the amended proposal. Other comments are addressed in Section II.C. below.

The material in current paragraph (c) of Rule 2710 would be divided into paragraphs (c) through (g). In addition, the amended proposal would adopt a new definition of the term "participating member" in subparagraph (a)(4)[7] to include participating broker/dealers, their associated persons and employees, any members of their immediate family, and any affiliate of the member. This term is used in the Rule and in the discussion below to distinguish between members that participate in the public offering and the broader category in the definition of "underwriter and related persons" that includes non-members and other persons related to a member.

a. Pre-Offering Objective Test

The original rule filing proposed to measure the 180-day review period in the same manner as the one-year review period in the current Rule.[8] The amended proposal would modify subparagraph (d)(1) to provide that the 180-day period is measured from the date the public offering is required to be filed with the Association pursuant to subparagraph (b)(4) ("required filing date").[9] NASD Regulation also proposes to amend this provision to clarify that the review period commences 180 days before the required filing date and ends when the offering is effective or when the public offering commences.

Several commenters (SIA, Fried Frank, Goldman, Merrill, Morgan, and Salomon) requested that the Rule be amended to provide that the 180-day review period be measured from the date that the preliminary prospectus is circulated, particularly because certain issuers file early with the SEC. NASD Regulation believes that the commenters misunderstand the purpose of measuring the review period from the filing date. Members typically provide significant underwriting services in connection with the preparation and filing of a registration statement or other offering document. These underwriting activities are likely to have commenced within the 180-day period preceding the filing date. Accordingly, the Corporate Financing Department ("Department") will review any items of value received by the underwriters beginning 180 days prior to the filing date because they may constitute compensation for underwriting services. Although the first distribution of a preliminary prospectus is more relevant than the filing date in determining whether an offering is likely to be completed, it is irrelevant to determining whether an issuer has begun to pay its investment bankers for underwriting services.

b. Common Requirements of the Exceptions From Underwriting Compensation

The original proposal included four "safe harbors" that establish transaction criteria that are intended to distinguish between securities acquired as bona fide investments from securities acquired as underwriting compensation. NASD Regulation is proposing to clarify and expand the "safe harbors"—now called "exceptions"—to cover additional types of transactions. Following is a discussion of certain of the requirements that are common to two or more exceptions.

1. *Deletion of Reference to "Safe Harbors"*—The original rule filing proposed four "safe harbors" that would exclude certain acquisitions of the issuer's securities during the 180-day review period from underwriting compensation. Some commenters (Fried Frank, Goldman, Morgan, Prudential, M&F, and Merrill) were correct in

[5] Securities Exchange Release No. 42619 (April 4, 2000); 65 FR 19409 (April 11, 2000).

[6] Akin, Gump, Strauss, Hauer & Feld ("Akin"); The Bond Market Association ("TBMA"); Chase Manhattan Corporation ("Chase"); CIBC World Markets Corporation ("CIBC"); Fried, Frank, Harris, Shriver & Jacobson ("Fried Frank"); Goldman, Sachs & Company ("Goldman"); Merrill Lynch ("Merrill"); Morgan Stanley Dean Witter ("Morgan"); Morrison & Foerster ("M&F"); North American Securities Administrators Association ("NASAA"); Ohio Department of Commerce, Division of Securities ("Ohio"); Prudential Securities, Inc. ("Prudential"); Salomon Smith Barney, Inc. ("Salomon"); and Securities Industry Association ("SIA").

[7] All references are to the provisions of Rule 2710, as proposed to be amended, unless otherwise specified.

[8] The original rule filing stated that the 180-day review period would be measured from the earlier of the date of filing with the SEC, state securities commission, or other regulatory authority, or the date of filing with the Association.

[9] This same calculation is used in the first three exceptions for acquisitions of securities from underwriting compensation and in the exceptions to the lock-up restriction on securities.

noting that, although described as "safe harbors," the original rule filing required that a transaction meet all of the criteria of a safe harbor in order to qualify for exclusion from underwriting compensation. Therefore, the proposed "safe harbors" in subparagraph (d)(5) will be treated under the amended Rule as "exceptions." [10]

2. *Ninety-Day Limitation on Availability of Exceptions*—The original rule filing would have prohibited reliance on the first three exceptions from underwriting compensation in the 90-day period prior to the filing date of the public offering. NASD Regulation proposes to amend the exceptions in subparagraphs (d)(5)(A)–(C) to delete the 90-day limitation and include language stating that transactions that occur before the required filing date are eligible for the exceptions.[11]

The deletion of the 90-day limitation was recommended by many commenters (SIA, TBMA, Fried Frank, Goldman, Merrill, Morgan, Prudential, and Salomon) who stated that the other conditions in the proposed exceptions were sufficient to prevent abusive practices during the entire 180-day review period. For example, Prudential stated that "the criteria in the safe harbors provide a more reliable guide than proximity in time for distinguishing between a payment for services and financing other than underwriting and compensation for underwriting." Consistent with the industry's position, NASD Regulation believes that the other criteria should generally be retained as proposed.

3. *Price and Terms of Securities*—The third and fourth exceptions would have required that any securities purchased under an exception must be purchased at the same price and with the same terms as securities purchased by other investors. NASD Regulation proposes to amend the introduction to the exceptions in subparagraph (d)(5) to apply this criterion to any purchase under any exception provided that the purchase occurs at approximately the same time as purchases by other investors. In addition, NASD Regulation agrees with commenters (SIA and Goldman) that the price and terms requirement is not applicable to securities received as placement agent fees and, therefore, the language only refers to "any securities *purchased*" (emphasis provided).

4. *Conditioning a Member's Participation on a Securities Acquisition*—The first three exceptions would have required that a member have written procedures to ensure that its participation in the public offering was not contingent on its participation in the private placement or loan that is covered by the exception. Commenters (Merrill and Fried Frank) recommended that this provision be eliminated as a condition of the exceptions, stating that it would require that the Department determine the intent of the member in each transaction, that the original proposal was unclear on the type of written procedures required, and that the provision is unnecessary in light of the other criteria of each exception. Commenters also believed that the rule language would require members to submit their written procedures for compliance with this provision for Department review in order to rely on an exception.

NASD Regulation agrees that the specific written procedures requirement in the exceptions is not necessary, especially because members remain subject to the general standards of NASD Rule 3010(b)(1), which requires members to establish written procedures that are reasonably designed to ensure compliance with NASD rules. However, NASD Regulation continues to be concerned that participating members not use their position as an issuer's underwriter to require the issuer to sell cheap stock or warrants to the member or the member's affiliates in a transaction that is eligible for an exception. In response to this concern, NASD Regulation proposes to include a statement in the introduction to subparagraph (d)(5) emphasizing that an exception is only available if a member has not conditioned its participation in the public offering on an acquisition of securities under the exception.

5. *Definition of Institutional Investor*—The second and third exceptions rely on the involvement of "institutional investors" in the issuer or private placement to help ensure that securities are acquired by participating members in bona fide transactions that were negotiated at "arms-length." To ensure that the institutional investors are in fact independent of any participating member,[12] NASD Regulation proposes to amend the definition of "institutional investor" in subparagraph (d)(4)(B) to require that no participating member may have an equity interest in or manage or otherwise direct the institutional investor's investments.[13] The definition in the original proposal required that the "institutional investor will not include any member participating in the public offering, any of its associated or affiliated persons, or any immediate family member of its associated or affiliated persons." This amendment clarifies that the word "included" was intended to prevent participating members from being "included" as equity owners of the institutional investor. This amendment also adds a requirement that none of the participating members should manage or otherwise direct the institutional investor's investments.

6. *Investment/Lending Subsidiary*—In response to a comment (Fried Frank), NASD Regulation proposes to amend the definition of entity in subparagraph (d)(4)(A) to permit a qualifying entity to make its investment or loan through a wholly-owned subsidiary. NASD Regulation is not persuaded by the argument, however, that a subsidiary formed by two or more entities or institutional investors is indistinguishable from its parents.

In addition, NASD Regulation proposes to amend the definition of institutional investor in subparagraph (d)(4)(B) to provide that the calculation of the $50 million threshold will include investments held by a wholly owned subsidiary of an institutional investor. This amendment will, therefore, also permit an institutional investor to make its investment under the third exception through a wholly owned subsidiary. (*See* comment of Akin).

7. *Venture Capital Experience*—NASD Regulation proposes to amend the provision in the first and second exceptions requiring that the investing/lending entity have prior experience in making venture capital investments to require that the entity "*has been* primarily engaged in the business of making investments in or loans to other companies" (emphasis provided). Contrary to opposing comments (SIA and Goldman), NASD Regulation believes that the protections of the criteria in these exceptions cannot be effective unless the entity has a history of at least one prior investment or loan transaction and that the business of the

[10] Subparagraph (b)(6)(A)(v) would require that members submit information to the Association that demonstrates compliance with all of the criteria of the exception being relied upon.

[11] The fourth, fifth, and sixth exceptions, discussed below, would be available during the 180-day review period and subsequent to the filing of the public offering.

[12] However, an institutional investor may be or include equity owners that are a member, or a person associated or affiliated with a member, so long as the member is not participating in the public offering.

[13] In accordance with another comment (SIA and Goldman), the word "entity" in the definition is proposed to be changed to "legal person" to avoid confusion with the separate definition of the term "entity" intended for use under the first and second exceptions.

entity primarily involves investments in or loans to other companies.[14]

c. Exceptions From Underwriting Compensation

1. *First Exception: Purchases and Loans By Certain Entities*—The first exception in subparagraph (d)(5)(A) is intended for acquisitions of the issuer's securities by certain entities that routinely make investments in or provide loans or credit facilities to other companies. The exception, as amended, would be available: (1) To any qualifying entity related to a participating member that meets a capital under management test, or is a bank or insurance company; and (2) for purchases in a private placement and for the receipt of securities as compensation for a loan or credit facility before the required filing date of the public offering, with a 10% limitation on the amount of securities acquired.

A. *Expansion of Exception:* A number of commenters (Chase, Goldman, Merrill, Prudential, Salomon, and SIA) discussed the impact of the current Rule and the original proposal on large financial institutions that include commercial and investment banking and insurance operations. The commenters recommended that NASD Regulation amend the Rule to exclude purchases of the issuer's securities if a large financial institution maintains information barriers between its broker/dealer and its other affiliates in a distinct line of business or it otherwise can demonstrate that it does not collaborate to secure underwriting business.

The Department is concerned that information barriers are not an appropriate mechanism for preventing abusive practices. However, to address the impact of the Rule on large financial institutions affiliated with members, NASD Regulation proposes to expand the first exception in subparagraph (d)(5)(A) to be available to any insurance company or bank. NASD Regulation believes that U.S. banks and insurance companies generally are structured and regulated in a manner that ensures that the institution is primarily engaged in a line of business that is distinct from the underwriting business.

U.S. banks and insurance companies would be those that come within the definitions of those terms in section 3(a)(6) of the Act and section 2(a)(13) of the Securities Act of 1933 ("Securities Act"), respectively. Foreign banks and insurance companies would not be able to rely on the exception unless the staff grants an exemption on a case-by-case basis under the NASD Rule 9600 Series. NASD Regulation proposes to grant such an exemption based on information demonstrating that the foreign institution operates and is regulated in a manner similar to a bank or insurance company in the U.S.

B. *Capital Under Management Test:* NASD Regulation proposes to revise the definition to allow the required capital to have been contributed or committed to the qualifying entity.

C. *Fiduciary Duty Requirement:* NASD Regulation proposes to amend the provision requiring an independent review of the investment or loan to delete the word "review" as redundant of the word "evaluation."

D. *Ten Percent Limitation on Acquisition:* The amended rule filing would restrict investments by all entities related to a member to 10% of the issuer's "total equity securities, calculated immediately following the transaction."[15] NASD Regulation believes this added protection is necessary in light of the proposal to eliminate the 90-day limitation on the availability of the exception and to eliminate the stock numerical limitation.

The term "total equity securities" is defined in subparagraph (d)(4) to include the total shares of common stock outstanding of the issuer and the total shares of common stock of the issuer underlying all convertible securities. The term includes voting and non-voting common stock since the NASD does not differentiate between the two types of securities. Also, the calculation aggregates all series of common stock, *i.e.*, series A and series B. By "convertible," the NASD means all securities that convert to common stock without payment of any additional consideration. As a result, the calculation of total equity securities does not include any warrants or options that give the holder the right to purchase the issuer's securities at a price.[16] Further, the convertible securities need not be those of the issuer; rather, the convertible securities can be those of any company that converts, without the payment of additional consideration, to the common stock of the issuer.[17]

E. *Sharing in Investment Banking Fees:* NASD Regulation agrees with commenters (Goldman and SIA) that the requirement that the investing or lending entity "not participate directly in investment banking fees received by the member for underwriting public offerings' is satisfied even if the member is the general partner of the investing entity, so long as no part of the underwriting fees are directed to the entity itself.

2. *Second Exception: Investments In and Loans to Certain Issuers*—The second exception in subparagraph (d)(5)(B) is intended for acquisitions of securities of issuers that have significant institutional investor involvement. The exception, as amended, would be available: (1) When institutional investors own at least 33% of the issuer's total equity securities, calculated on a pre-transaction basis; (2) to any related entity of a participating member that manages capital contributions or commitments of at least $50 million; and (3) for purchases in a private placement and for the receipt of securities as compensation for a loan or credit facility before the required filing date of the public offering, with a 10% limitation on the amount of securities acquired.

A. *Ten Percent Limitation on Acquisition:* NASD Regulation proposes to increase the investment limitation on all entities related to each participating member from 5% to 10% of the issuer's "total equity securities" calculated on a post-transaction basis.

B. *Board Membership Requirement:* In response to commenter's concerns that the original proposal appeared to require an issuer to put an institutional investor on its board of directors in order for its underwriters to be eligible to rely on the exception, NASD Regulation proposes to delete the requirement that an institutional investor be a member of the issuer's board of directors.

C. *Board Vote:* Consistent with the deletion of the requirement that an institutional investor be a member of the issuer's board of directors and other comments, NASD Regulation proposes

[14] The definition of "entity" in subparagraph (d)(4) will continue to require that there have been at least one prior joint investment for a group of legal persons, to qualify as an entity. Therefore, when an entity is composed of a group of legal persons, one prior investment or loan by a group will also satisfy the requirement for at least one prior investment or loan under subparagraphs (d)(5)(A) and (B). In addition, each member of the group will be required to demonstrate that it is primarily engaged in the business of making investments in or loans to other companies.

[15] NASD Regulation agrees with commenters (Fried Frank, Goldman, Merrill, and SIA) that the calculation should not include stock options or employee options and warrants and, has, therefore deleted the requirement that the amount of the issuer's securities be calculated on a "fully diluted" basis.

[16] In comparison, purchasers of convertible securities have fully paid for the security and any underlying security regardless of when or if they convert.

[17] In some cases, a parent company will issue securities convertible to securities of a subsidiary.

to revise the provision requiring approval of the investment by the issuer's board of directors and the affirmative vote of all institutional investors on the board, to require approval by a majority of the issuer's board of directors and a majority of any institutional investors, or their designees, that are board members.

3. *Third Exception: Private Placements With Institutional Investors*—The third exception in paragraph (d)(5)(C) is intended for acquisitions in private placements with institutional participation. The exception, as amended, would be available to any person that is covered under the definition of underwriter and related person for purchases before the required filing date of the public offering of securities in a private placement and for the receipt of securities as placement agent compensation, so long as institutional investors purchase at least 51% of the total offering and underwriters and related persons, in the aggregate, do not purchase more than 20% of the total offering.

A. *Definition of the "Total Offering":* NASD Regulation proposes to revise the exception to clarify, as recommended by commenters, that the 51% investment requirement for institutional investors and the 20% limitation on investments by underwriters and related persons is based on the "total offering," which is comprised of the total number of securities sold in the private placement and the securities received or to be received as placement agent compensation by any member.[18]

B. *Lead Negotiator Requirement:* The original proposal required an institutional investor to be the lead negotiator with the issuer to establish the terms of the private placement. NASD Regulation proposes to amend this requirement as recommended by the Corporate Financing Committee of NASD Regulation to provide that, when the terms of the private placement are not negotiated with an institutional investor, an institutional investor must at least be the lead investor in establishing or approving the terms of the private placement.

4. *Fourth Exception: Acquisitions and Conversions to Prevent Dilution*—The fourth exception in paragraph (d)(5)(D) is intended for the purchase or receipt of securities to prevent dilution of the investor's position in the issuer. The exception, as amended, would be available to any person who is covered under the definition of underwriter and related person for acquisitions of securities before the effective date of the public offering resulting from a preemptive right or a pro-rata rights offering, and acquisitions resulting from a stock-split or stock conversion, provided that: (1) The opportunity to purchase or receive securities is provided to all similarly situated securityholders; and (2) the amount of securities purchased or received does not increase the investor's percentage ownership.

A. *Availability of Exception:* The exception would be available during the 180-day review period and subsequent to the filing of the public offering.

B. *Definition of Right of Preemption:* To clarify the application of this exception, NASD Regulation proposes to include a definition of "right of preemption" in subparagraph (d)(4)(C) to list all the circumstances under which it is anticipated that a purchaser may receive a preemptive right.[19]

C. *Revisions to Limitation on Acquisition of the Preemptive Right:* NASD Regulation proposes to exclude an acquisition under a right of preemption acquired in connection with securities purchased in a private placement from underwriting compensation so long as the securities purchased in the private placement are not deemed to be underwriting compensation.

D. *Limitation on Securities Received Upon Conversion:* The exception is available to securities that are received upon conversion of securities only if the convertible security is not deemed to be underwriting compensation.

E. *Limitation on Increasing the Purchaser's Percentage Ownership:* NASD Regulation proposes to amend the language prohibiting the investor from increasing its percentage ownership of the same class of security[20] to refer to the "same generic class of securities of the issuer" and to the "class of securities underlying any convertible security." In addition, NASD Regulation proposes to amend this provision to clarify that the investor's level of percentage ownership will be calculated immediately prior to the investment.

F. *Pre-Existing Contractual Rights:* As previously discussed, any securities purchased under an exception must be purchased at the same price and with the same terms as securities purchased by any other purchasers. NASD Regulation proposes to include a provision clarifying that it is not contrary to this limitation for a purchaser to retain a pre-existing contractual right, such as a preemptive right, that was granted in connection with a prior purchase.

5. *Fifth Exception: Purchases Based on a Prior Investment History*—A fifth exception in paragraph (d)(5)(E) is proposed in response to a comment (CIBC) so that members or their affiliates that established a long-term relationship with an issuer would be able to purchase additional securities of the issuer to prevent dilution before the effective date of the public offering. The exception would only be available to investors that have previously purchased the issuer's securities. NASD Regulation believes that the terms of this exception are consistent with historic NASD Regulation practice.

A. *Prior Investment Requirement:* In order to be eligible for the exception, the investor must have made at least two prior purchases of the issuer's securities: One investment at 2 years before the required filing date and another more than 180 days before the required filing date of the public offering.

B. *Limitation on Increasing the Purchaser's Percentage Ownership:* The securities purchased under the exception cannot increase the investor's percentage ownership of the generic class of securities of the issuer calculated immediately prior to the investment.

C. *Availability of Exception:* The exception would be available during the 180-day review period and subsequent to the filing of the public offering.

6. *Sixth Exception: Financial Consulting and Advisory Agreements*—A sixth exception is proposed in subparagraph (d)(5)(F) for cash fees and securities paid to a financial consultant or advisor to the issuer when the relationship was established more than one year before the required filing date of the public offering.

This exception is consistent with an exception in the Rule, which excludes from the definition of "item of value" financial consulting and advisory fees if an ongoing relationship between the issuer and the financial advisor or consultant was established more than 12 months before the filing date of the

[18] For example, if the private placement consists of 100,000 shares of common stock and the issuer pays placement agent compensation that includes a warrant for 10,000 shares of common stock, the total offering is 110,000 shares of common stock.

[19] An investor may only rely on this exception to purchase the enumerated classes of the issuer's securities that are covered by the right of preemption.

[20] This limitation does not apply in the case of conversions of securities. For example, the calculation of percentage ownership of preferred stock will be based on all series of preferred stock outstanding and the calculation of percentage ownership of convertible preferred stock will be based on the company's equity outstanding on an as-converted basis.

public offering. The original proposal included this exclusion. The sixth exception would codify objective standards that help clarify which long-term arrangements can qualify for the exception.

Among other criteria, the consulting or advisory relationship must have been entered into more than one year before the required filing date of the public offering. Commenters (Chase and Fried Frank) recommended that the time period be decreased to 180 days before the filing date of the public offering. NASD Regulation does not agree that a 180–day period is sufficient to identify a "long term" relationship between a consultant and the issuer that justifies excluding fees and securities paid to the consultant during the 180-day review period, particularly when the consultant may have provided services related to the preparation, structuring, or conduct of the public offering.

d. When Securities Are Considered "Received"

In the original proposal, subparagraph (d)(3) included a provision to establish when securities are considered "received" under the Rule for purposes of determining if the securities were received within the 180-day review period and are, therefore, considered to be underwriting compensation.

The original proposal treated securities received as compensation for a loan or credit facility as "received" on the execution of the agreement for the loan or credit facility. NASD Regulation proposes to amend this provision to treat a put option like a loan or credit facility and to require a written contract with detailed provisions for any agreement for a loan, credit facility, or put option. Therefore, a contract for a loan or credit facility must specify the amount and terms of the loan or credit facility and the amount of securities that will be paid as a fee. In the case of a put option, the contract must unconditionally require the investor to purchase securities upon demand of the issuer and must include a formula for determining the amount and price of the securities that must be purchased. If the required information is provided, the securities will be considered received as of the date the written agreement is executed. Absent this required information, securities received for a loan or credit facility or purchased from the issuer in accordance with a put option will be considered received as of the date of transfer of beneficial ownership.

Commenters (Chase, Fried Frank, Goldman, Merrill, and SIA) recommended that the date a commitment letter is signed be relied upon as the date of receipt with respect to securities purchased in a private placement. NASD Regulation has not amended the Rule as commenters suggest. In the NASD Regulation's experience, commitment letters do not serve as reliable indicators of the date of "receipt of securities." In many cases, commitment letters allow one or both parties to withdraw from the transaction or impose other contingencies that may prevent the purchase of the securities. In NASD Regulation's experience, the date that the private placement closes is a more reliable indicator of when securities are "received." Moreover, beneficial transfer of the securities typically occurs at closing.

In addition, in response to a comment (M&F), the relevant "closing of a private placement" for a private placement with different closing dates would be the closing where the issuer receives its funding from the investor.

e. Post-Offering Review Authority/ Undisclosed Compensation

The original proposal would have required the staff to examine items of value received by underwriters and related persons during the 90-day period immediately following the effective date of a public offering to determine whether they constitute underwriting compensation. Commenters (Fried Frank, Goldman, Merrill, and SIA) expressed concern that the provision may subject members to disciplinary actions based upon the unknown activities by unaffiliated entities included in the definition of "underwriter and related person." The purpose of this provision was to ensure that the staff could consider whether items of value received after the public offering need to be included as underwriting compensation in order to avoid circumvention of the Rule.

NASD Regulation agrees that this provision could be more narrowly tailored to address those specific circumstances where compensation arrangements are not disclosed to the Association. New subparagraph (d)(2) would provide that all items of value received and all arrangements entered into for the future receipt of an item of value that are not disclosed to the Association prior to the date of effectiveness or the commencement of sales of a public offering (including items of value received after the public offering), are subject to post-offering review to determine whether such items of value are additional underwriting compensation for the public offering. Subparagraph (b)(6)(vi)(b) would require the filing of any new arrangement that provides for receipt of an additional item of value subsequent to the issuance of an opinion of no objections to the underwriting arrangements by the Association and within 90 days following the date of effectiveness or commencement of the public offering.

f. Cash and Securities That Are Not Items of Value

The following amendments are proposed to subparagraph (b)(3)(B), which lists the items of value that will be excluded from underwriting compensation.[21]

1. *Cash Compensation Excluded As An Item of Value*—The exception for "cash discounts or commissions received in connection with a prior distribution of the issuer's securities" was unintentionally deleted in the original proposal. NASD Regulation proposes to reinstate and broaden the exclusion from underwriting compensation to cover *cash* compensation for services provided to the issuer for private placement agent or merger and acquisition services, or for providing a loan or credit facility, as recommended by commenters.

2. *Securities Excluded As An Item of Value*—In addition, as recommended by commenters, the proposed Rule would exclude receipt of the issuer's securities from being considered an item of value if they are:

(1) Listed and purchased in the public market transactions;

(2) Purchased through the issuer's employee stock purchase plan; or

(3) Acquired by an investment company registered under the Investment Company Act of 1940.

g. Flexibility in the Application of the Rule

1. *General Request for Flexibility*—Commenters (Fried Frank, Goldman, Morgan, Prudential, and Merrill) requested that the Rule be amended to allow the staff to grant exemptions from the Rule. The commenters stated that exemptions should be granted in new or unanticipated situations that were not contemplated by the Rule or where a transaction narrowly fails to meet the criteria of one of the enumerated exceptions. One of the commenters (Prudential) also stated that the exemption process under the NASD Rule 9600 Series was too cumbersome to be useful and preferred a structure where members can receive a quick response from Department staff on a request to consider a fact situation that

[21] NASD Regulation also proposes to amend the language of subparagraphs (c)(3)(a)(iv) and (vii) to eliminate redundancies.

does not fall within one of the exceptions to the Rule.

NASD Regulation agrees with the commenters that the staff should be able to grant exemptions to respond to new or unanticipated situations. NASD Regulation proposes to amend paragraph (i) of Rule 2710 to articulate the substantive standard upon which exemptions may be granted. Specifically, paragraph (i) would state that the staff has authority to grant an exemption from the Rule, if it is consistent with the purposes of the Rule, the protection of investors, and the public interest. NASD Regulation intends to use its exemption authority sparingly, principally for situations not addressed in the Rule. NASD Regulation generally does not believe that its exemption authority should be used to exclude transactions that narrowly fail to meet one or more criteria of the Rule, because these are the types of transactions that are addressed in the Rule.[22]

The NASD Rule 9600 Series sets forth the procedures to obtain exemptive relief from those NASD Rules that provide for such relief. NASD Regulation believes that the exemptive procedures set forth in the Rule 9600 Series allow Department staff to consider and grant exemptions from any provision of the Rule on an immediate basis.

2. *Exemptions for Consulting Fees and Founder's Stock*—Commenters recommended that NASD Regulation adopt additional exceptions from underwriting compensation. In certain situations, NASD Regulation believes that there are circumstances where the recommended exception is appropriate, but a specific exception with objective criteria cannot be developed to ensure the bona fide nature of the transaction. Therefore, NASD Regulation proposes to consider exemptions on a case-by-case basis pursuant to the standards in paragraph (i) in the following situations.

A. *Financial Consulting and Advisory Fees:* Commenters (Goldman and SIA) objected that the original rule filing proposed to delete current subparagraph (c)(4)(E), which excludes financial consulting and advisory fees if "the relationship * * * was not entered into in connection with the offering and * * * actual services have been or will be rendered which were not or will not be in connection with or related to the offering." These commenters believed that there are many services for which a member may legitimately be retained at the time of or shortly before a public offering for which it ought to receive financial and advisory fees that are not included as underwriting compensation. It is our experience that the rule language that NASD Regulation proposed to delete in the original proposal is so indefinite in nature that it has not generally provided the guidance sought by the commenters. NASD Regulation proposes instead to consider on a case-by-case basis excluding securities and cash fees from underwriting compensation for services that:

(1) Solely relate to the business or management of the issuer; and

(2) Are not related to the preparation, structuring, or conduct of the public offering, or to raising capital in a transaction related to the public offering.

For example, if an agreement is for post-offering merger and acquisition services, NASD Regulation would consider excluding fees that will only be paid upon the occurrence of a merger or acquisition. If an agreement is for post-offering public relations services, NASD Regulation would consider excluding fees paid to an experienced public relations firm that is not affiliated with a member.

B. *Founder's Stock:* NASD Regulation proposes to consider on a case-by-case basis excluding acquisitions of "founder's stock" and any subsequent purchases by a founder from underwriting compensation. Founder's stock is acquired at the time of incorporation of the issuer as a start-up company or upon purchase of substantially all of the assets of the issuer from another company.

3. *Interpretations of Rule*—Commenters also recommended amendments to the Rule to exclude purchases of securities in a number of common-sense situations. NASD Regulation proposes to interpret the Rule to address on a case-by-case basis excluding purchases of securities when the:

(1) Purchaser was not affiliated or associated with a member participating in the public offering at the time of the acquisition;

(2) Securities acquired are those of the member or the parent of the member and the purchaser is an associated person of the member or employee of the parent, or members of their immediate family;

(3) Securities were acquired in a resale transaction under Rule 144A from a shareholder of the issuer who is not an affiliate, officer, director, general partner, or employee of the issuer, or a selling security holder in the public offering; or

(4) Securities were purchased from the issuer for immediate resale under Rule 144A and the member failed to place the securities.

h. Lock–Up Restrictions on Securities

The original rule filing proposed to delete the current one-year lock-up restriction on securities included in underwriting compensation and the current three-month lock-up restriction on securities of the issuer held by a member and certain senior persons and subsidiaries at the time of the offering. These restrictions would have been replaced by a single, 180-day lock-up restriction on all equity securities of the issuer that are held by any underwriter and related person at the time of effectiveness of the public offering, unless the securities or transaction complied with an exception. NASD Regulation proposes to clarify the language of the restriction and to adopt additional exceptions, as discussed by commenters (Fried Frank, Goldman, M&F, Merrill, and SIA).

1. *Lock-Up Restriction Language*—NASD Regulation proposes to amend subparagraph (g)(1) to prohibit any hedging, short sale, derivative, put, or call transaction that would result in the effective economic disposition of the securities. This amendment was recommended by the Corporate Financing Committee of NASD Regulation and is necessary to ensure that the lock-up restriction remains effective in light of practices that have developed since the restriction was first adopted in the original version of the Rule.

2. *Exceptions to Lock-Up Restriction For Securities Acquired At Any Time*—The original proposal included exceptions from the lock-up restriction in subparagraph (g)(2) for transfers of securities: by operation of law or reorganization of the issuer; to any member participating in the offering and the officers and partners thereof; if the aggregate amount of securities held by an underwriter and its related persons do not exceed 1% of the securities being offered; and if the class of security qualifies as an "actively traded security" for purposes of SEC Regulation M. NASD Regulation proposes to amend subparagraph (g)(2)

[22] The original proposal stated, "[t]he current subjective, factor-weighing process for determining whether securities were acquired in connection with a public offering is an inefficient method * * * The subjectivity hampers the Department's ability to provide clear and predictable guidance to members. The consequences under the Rule of a particular venture capital or other private placement financing are sometimes uncertain until a public offering is filed and the Department's review is completed. This uncertainty unnecessarily complicates the capital-raising process, to the detriment of issuers and investors."

to adopt additional exceptions from the lock-up restriction for securities:

(1) Held by an investment fund, provided that no participating member manages or otherwise directs the investments of the fund, and members participating in the offering do not own more than 10% of the equity in the fund;

(2) Previously subject to the lock-up restriction (thereby allowing the sale of such securities after the expiration of the previous lock-up restriction);

(3) That are listed and were purchased in the public market;

(4) Acquired under the issuer's employee stock purchase plan; or

(5) Purchased by an investment company registered under the Investment Company Act of 1940.

3. *Exceptions to the Lock-Up Restriction for Securities Acquired Before the 180-Day Review Period*—The original rule filing included an exception from the lock-up restriction for securities considered "actively traded" under SEC Regulation M.[23] NASD Regulation proposes to narrow this exception to make it available only to securities that were acquired before the 180-day review period. NASD Regulation believes this revision is necessary because NASD Regulation also proposes to eliminate the 90-day limitation on the availability of the exceptions in subparagraphs (d)(5)(A)–(C). The application of the lock-up restriction to securities acquired within the 180-day review period will ensure that securities received in transactions that meet an exception, and thus are not included in compensation calculations, are held as an investment for at least six months. Accordingly, members would be prevented from making a quick profit on securities received from issuers to whom they are providing underwriting services.

In addition, NASD Regulation proposes a new exception from the lock-up restriction for securities acquired before the 180-day review period that are owned by any person that is not a participating member (*e.g.*, underwriter's counsel, consultants, and finders).

[23] If a security qualifies as "actively traded" under SEC Regulation M as of the date of effectiveness of the public offering, then the security is considered "actively traded" at any time thereafter when the securityholder determines to sell its securities.

i. Regulation of Terms of Securities

1. Stock Numerical Limitation—The amended rule filing, like the original rule filing, would eliminate the 10% stock numerical limitation in current subparagraph (c)(6)(B)(xi). In making this change, NASD Regulation believed that the number of securities received by a member as underwriting compensation would be limited by the compensation guideline applicable to the offering. Commenters (NASAA and Ohio) pointed out that the compensation guidelines would not be effective in this regard. They noted, for example, that warrants with an exercise price of 165% of the public offering price do not have any compensation value[24] and, consequently, an unlimited amount of warrants with such a high exercise price could be obtained as underwriting compensation.

NASD Regulation believes that the low valuations that are assigned to warrants that have an exercise price in excess of 125% of the public offering price no longer accurately reflect the economic value of the warrants. NASD Regulation proposes to amend subparagraph (e)(3) to require that all warrants have a minimum compensation value of .2% of the offering proceeds[25] for each amount of securities that is up to 1% of the securities being offered to the public, excluding securities subject to the overallotment option.[26] As a result of this amendment, the compensation guideline will limit the amount of securities that can be obtained through the exercise of any warrant.

2. *Other Amendments to Regulation of Terms of Convertible/Exercisable Securities*—A commenter (Goldman) requested a number of amendments to and questioned the continued usefulness of subparagraph (f)(2)(H), which prohibits unfair and unreasonable arrangements in connection with securities that are exercisable or convertible to another security. NASD Regulation finds that this provision continues to be necessary to prevent abusive arrangements when a member receives exercisable or convertible securities as underwriting compensation and proposes a number of modifications to clarify the applicability of the requirements.

A. *Scope of Regulation:* NASD Regulation proposes to amend subparagraph (f)(2)(H) to clarify that members are not only prohibited from including terms and arrangements in agreements for exercisable or convertible securities that are not permitted under the Rule, but they also are prohibited from exercising the securities in a manner that is prohibited under the Rule. Although this position is intuitively obvious, some members have argued that if the terms of the agreement are ambiguous, the securities can be exercised in a manner that otherwise would violate the Rule.

B. *Anti-Dilution Terms:* NASD Regulation proposes to amend the provisions prohibiting unfair "anti-dilution" arrangements in subparagraphs (f)(2)(H)(vi) and (vii) to incorporate a clearer explanation of the requirements. The revised language would state that the recipient may only receive a larger amount of securities or exercise at a lower price than originally agreed upon if the public shareholders have been proportionally affected by a stock split, stock dividend, or other similar event. NASD Regulation proposes minor changes to the prohibition on receipt or accrual of cash dividends prior to the exercise or conversion of the security.

C. *Exercise Price of Security:* NASD Regulation proposes to delete the provisions in current subparagraphs (c)(6)(B)(viii)(b) and (i) that prohibit underwriters and related persons from receiving a security that is exercisable or convertible at a price below the public offering price or on terms more favorable than the terms of the securities being offered to the public.

3. *Securities Received as Underwriting Compensation That Are Different Than the Securities Offered to the Public*[27]—The original rule filing proposed to amend current subparagraph (c)(5)(A) to allow "upon good cause shown" the payment of underwriting compensation in the form of securities that are *not* identical to those offered to the public or to a security that has a bona fide independent market. A commenter (Ohio) requested reinstating the requirement that an exception only be permitted in "exceptional and unusual circumstances." NASD Regulation agrees with other commenters (TBMA

[24] The "warrant formula" for valuing warrants is in subparagraph (e)(3) of the amended Rule.

[25] The proposed valuation is the equivalent of the 2% valuation that would be applied to warrants for 10% of the securities underwritten on a firm-commitment basis that have an exercise price of 125% of the public offering price. The standard exercise price for warrants has long been 120% of the public offering price.

[26] For example, warrants exercisable for securities equal to 4% of the offered securities would have a compensation value of at least .8%. Warrants exercisable for securities equal to 9% of the offered securities would have a compensation value of at least 1.8%.

[27] NASD Regulation agrees with commenters (Goldman and SIA) that securities that will be converted into the securities offered to the public at the time of the public offering are considered to the identical to the securities offered to the public.

and Morgan) that the Rule should permit a member to receive securities as underwriting compensation that are different than those offered to the public, so long as the securities can be assigned a compensation value. Therefore, NASD Regulation proposes to amend subparagraph (e)(1) to require the security to be able to be accurately valued to comply with subparagraph (f)(2)(I). The burden will be on the member to demonstrate to the satisfaction of Association staff that the securities can be assigned an appropriate value.

j. Other Proposed Amendments [28]

1. Definitions

A. *Definition of Participating Member:* NASD Regulation proposes to add a definition in subparagraph (a)(4) of the term "participating member" to include any member that is participating in a public offering, any associated person of the member, any members of the immediate family of the associated persons, and any affiliate of the member. In developing the amended Rule, it became clear that certain provisions were intended to apply only to the "participating member," whereas others were to apply more broadly to all underwriters and related persons, which includes certain non-members such as underwriter's counsel, financial consultants and advisors, and finders and persons that are related to a participating member.

B. *Definition of Underwriter and Related Persons:* In light of the new term "participating member," NASD Regulation also must amend the term "underwriter and related persons" in subparagraph (a)(6). The revised definition includes the term "participating member" and deletes references to "underwriters," "members of the selling or distribution group," and "members of the immediate family of the aforementioned person," all of which are now incorporated into the Rule through the definition of "participating member."

C. *Definition of Immediate Family:* NASD Regulation proposes in response to comments (Goldman, M&F, Morgan, and SIA) to amend the definition of "immediate family" in Rule 2720(b)(9) to exclude family members other than the spouse and children who do not live in the same household as, have a business relationship with, and are not materially supported by the employee or associated person. NASD Regulation believes that the current definition is too broad and places unnecessary burdens on members. With the new definition, members will only be required to submit information to the Association under Rule 2710(b)(6)(A)(iii) on the shareholdings of the spouse and children of the associated persons and employees of members, when other family members qualify for an exclusion. In addition, the definition will be expanded to include any other person living in the same household as the associated person or employee.

2. Filing Requirements

A. *Treatment of Confidential SEC Submissions:* NASD Regulation proposes to amend subparagraph (b)(4) to provide that the filing requirements of the Rule apply when any offering document is "filed with or submitted to" another regulatory authority, in order to eliminate any ambiguity when offering documents are "submitted" to the SEC for confidential review, thereby addressing comments (Fried Frank, Morgan, and Salomon) received on the SEC's confidential "submission" process.[29]

B. *Obligation to File Before Offers Commence:* The current filing requirements cover public offerings that are not filed or submitted to the SEC or any other federal or state regulatory authority for review. For these offerings, NASD Regulation proposes to amend the Rule to state that the offering documents must be filed at least 15 business days prior to the date "on which offers will commence," replacing current language that looked to the "anticipated offering date." Thus, members may not commence any efforts to offer the securities unless the offering memoranda and related documents and information have been filed with the Association for at least 15 business days.[30]

C. *Obligation to File and Receive Opinion of No Objections Before Sales Commence:* NASD Regulation proposes to revise the introduction of subparagraph (b)(4)(B) to clarify that the documents and information must have been filed as required by the Rule and the Association must have issued an opinion of no objections prior to the commencement of "sales of securities," replacing the current language that looked to the commencement of the "offering." [31]

D. *Information on NASD Affiliation:* Subparagraph (b)(6) requires members to submit information to the Department on the NASD affiliation or association with any member of any officer, director or security holder of the issuer in an initial public offering and with respect to any other offering provide such information with respect to any officer, director or security holder of 5% or more of any class of the issuer's securities. Commenters (Goldman, M&F, Morgan, and SIA) stated that non-public companies increasingly have a large number of investors and that the burden of compliance outweighs the value of the information when each investor holds a small interest in the issuer. NASD Regulation understand that members have had increasing difficulty obtaining complete and accurate information about shareholder ownership under the 5% threshold on a timely basis, thereby impacting the schedule for requesting effectiveness for the offering. Information on the NASD affiliation or association of issuer's shareholders that are not officers or directors, are not 5% or greater shareholders, and that have not purchased their securities within the 180 days preceding the filing date of the public offering is only necessary for identifying the persons who may be subject to the proposed 180-day restricted period with respect to securities that are not included in underwriting compensation.

NASD Regulation proposes to amend subparagraph (b)(6)(iii) to eliminate the requirement to file information on the NASD affiliation or association of *all* shareholders of the issuer. The revised provision would require the filing of information on the NASD affiliation of any:

(1) Officer or director of the issuer;

(2) Beneficial owner of 5% or more of any class of the issuer's securities; and

(3) Beneficial owner of the issuer's unregistered equity securities purchased during the 180-day period immediately proceeding the filing date of the public offering (except purchases through issuer's employee stock purchase plan).

As a result of this change, members will be obligated to identify those entities and persons that are covered by the proposed lock-up restriction in subparagraph (g)(1) and beneficially own securities of the issuer that were

[28] Other amendments are proposed to the Rule to make minor grammatical and punctuation changes. References in the Rule to the "date of effectiveness" have been amended to also refer to the "commencement of sales" to encompass offerings not filed with the SEC.

[29] The use of the word "filed" in the Rule was intended to have the common meaning of the term to identify a point in time when offering documents have been submitted to a regulatory authority and was not intended to distinguish between "filed" and "submitted" documents under SEC procedures for purposes of members' obligations to file public offerings with the Association.

[30] This amendment was developed in connection with consideration of the comments on the treatment of confidential submissions to the SEC under the filing requirements of the Rule.

[31] *ID.*

acquired before the period commencing 180 days immediately preceding the required filing date, and that are not also an officer, director, or 5% or greater shareholder of the issuer. Members will be responsible for ensuring compliance by any such shareholders with the lock-up restrictions.

E. *Information on New Arrangements:* NASD Regulation proposes to amend subparagraph (b)(6)(A)(vi), to narrow the filing requirement relating to any new arrangements after the issuance of an opinion of no objections. Under the revised proposal, the filing obligation will apply only to participating members, rather than all persons covered by the term "underwriter and related persons."

3. *Valuation of Securities*—Paragraph (e) regulates the manner in which securities are assigned a value for purposes of the calculation of underwriting compensation.

A. *Distinguish Securities With an Exercise or Conversion Price:* NASD Regulation proposes to amend subparagraphs (e)(2) and (3),[32] as recommended by commenters (Goldman, M&F, and SIA), to clarify that the application of the valuation method depends on whether the security has an exercise or conversion price. Convertible securities that have no conversion price will be valued in the same manner as common stock.

B. *Valuation of Securities With a Longer Resale Restriction:* NASD Regulation proposes to amend subparagraph (e)(4) to clarify that a lower value of 10% will be deducted for each 180-day period that securities are restricted from resale beyond the mandatory lock-up restriction.[33]

C. *Valuation of Securities That Have an Exercise or Conversion Price:* As discussed above, NASD Regulation is proposing to amend the Rule to no longer require that securities have an exercise or conversion price that is at least equal to the public offering price. As a result of this change, NASD Regulation proposes to amend subparagraph (e)(3) to clarify that the market price or public offering price of the underlying security is deducted from the exercise/conversion price of the security. In the case of a security with an exercise/conversion price below the public offering price, that subtraction would result in a negative number.

4. Sales of Securities Considered To Be Underwriting Compensation

When members are found to have exceeded the permissible underwriting compensation limits, they frequently seek to dispose of securities that have been deemed to be underwriting compensation to bring their compensation within acceptable levels. Current subparagraph (c)(6)(C) addresses such sales by requiring securities to be returned to the issuer or the source from which received at cost and without recourse in order for the securities to be excluded from underwriting compensation. NASD Regulation believes that this provision is unnecessary because, under the Rule, the Department may consider whether a sale of securities deemed to be underwriting compensation is bona fide, without recourse, and at cost before excluding the securities from underwriting compensation. Accordingly, NASD Regulation proposes to eliminate this provision from the Rule.

5. Reorganization of the Rule

NASD Regulation proposes to reorganize the Rule to make it easier to read by dividing it into more sections as follows:

(a) Definitions
(b) Filing Requirements
(c) Underwriting Compensation and Arrangements
(d) Determination of Whether Items of Value Are Included in Underwriting Compensation
(e) Valuation of Non-Cash Compensation
(f) Unreasonable Terms and Arrangements
(g) Lock-Up Restriction on Securities
(h) Proceeds Directed to a Member
(i) Exemptions

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[34] which requires, among other things, that the Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest. NASD Regulation believes that the proposed rule change will eliminate burdensome rules that no longer distinguish between bona fide capital-raising and lending practices and abusive arrangements and will minimize the opportunity for abusive practices by members in connection with underwriting public offerings of securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section C, below, includes a discussion of the potential impact on small members of the proposed $50 million standard for entities eligible to rely on the second exception from underwriting compensation. NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

On April 11, 2000, the SEC published the original proposal for comment in the **Federal Register**.[35] The SEC received fourteen comment letters. Following is a discussion of the comments received that are not addressed above because NASD Regulation did not incorporate them into the proposed revisions.

1. Listed Company Exclusion

Some commenters (TBMA, Goldman, Merrill, and SIA) recommended that the NASD adopt a "listed company exception" to the Rule. Under this proposal, any public offering by an issuer that is listed or would be listed after its initial public offering on the Nasdaq National Market, the New York Stock Exchange, or the American Stock Exchange or any issuer expecting to have market capitalization of at least $75 million would be exempt from the Rule's filing requirements and substantive provisions.[36] The commenters argued that such issuers are sufficiently large to negotiate favorable terms with prospective underwriters without the protections of the Rule.

Our experience indicates that abuses can occur in the underwriting arrangements with listed companies. NASD Regulation does not believe that the investor protection purposes of the listing standards are an adequate proxy for the review of offering documents and underwriting agreements to prevent unfair or unreasonable arrangements. Moreover, the changes proposed to the Rule that modernize its provisions and provide exceptions for legitimate investment transactions should

[32] As discussed above, NASD Regulation also proposes to amend subparagraph (e)(3) to impose a minimum compensation value on securities with an exercise or conversion price.

[33] For example, the underwriting compensation value of securities with a value of 2.50% will be reduced to 2.25% if the securities are restricted for one year from the effective date and to 2% if the securities are restricted for 18 months following the effective date.

[34] 15 U.S.C. 78*o*–3(b)(6).

[35] *See supra*, note 4.

[36] Morgan and Salomon recommended an exception for a company with market capitalization of $100 million.

eliminate the need for such a sweeping exception.

2. Other Proposed Exclusions From Underwriting Compensation

a. *Exclusion of Cash and Non-Cash Fees for Other Services*—Commenters (Chase, M&F, Prudential, and Salomon) recommended that fees be excluded from underwriting compensation that are for merger and acquisition advice, a loan or credit facility, a currency hedge, an insurance policy, services provided by the business unit of a bank, and other services provided at arm's length.

As discussed in Section II.A., NASD Regulation is proposing to broaden the current exclusion from underwriting compensation for private placement agent cash fees to include cash fees received by participating members during the review period for providing a loan or credit facility, or for services in connection with a merger or acquisition. NASD Regulation has traditionally interpreted the Rule to exclude cash fees received by banks for cash management or trust services, and would extend that position to insurance policies (although this issue has not arisen in connection with our review of an offering). In addition, NASD Regulation has traditionally interpreted the Rule to include in underwriting compensation any securities paid during the review period to participating members for related capital raising activities, including loans, credit facilities, and merger/acquisition services. Services as a financial advisor and consultant are specifically included within the definition of underwriter and related person, and are addressed in Section II.A. above. NASD Regulation will address the question about the payment of cash fees for a currency hedge provided by a bank or member, when that issue actually arises in connection with our review of a public offering.

b. *Payments to a Previous Underwriter*—The original rule filing proposed to adopt an exclusion from the calculation of underwriting compensation in subparagraph (b)(3)(ii) for any payment to a member in connection with a proposed public offering that was not completed, if the member does not participate in the revised offering. Several commenters (SIA, Goldman, Fried Frank, and Merrill) urged NASD Regulation to exclude fees paid to a member for a failed offering even when the member participates in the revised offering. NASD Regulation believes excluding these fees would provide an opportunity for members to evade the compensation limits of the Rule and, thus, has not amended the Rule as suggested by commenters.[37]

c. *Exclusion for Investments by Foreign Affiliates*—Chase and CIBC recommended that investments in the issuer's securities by foreign affiliates of a member, particularly when the issuer is also domiciled outside the U.S., should be excluded from the calculation of underwriting compensation. NASD Regulation believes it is appropriate to apply the compensation limitations of the Rule to all members participating in a public offering made in the U.S., regardless of the location of the issuer or any affiliate of a participating member. Any other position would unfairly discriminate between members of the NASD depending on where their affiliates are located and whether the member has developed a business in underwriting the securities of foreign companies. Moreover, NASD Regulation believes that an exclusion for investments by foreign affiliates could easily be used to circumvent the Rule's compensation limits.

d. *Exclusion of Investments by Certain Employees/Employee Investment Funds*—Commenters (Merrill, Morgan, and Prudential) requested that the Rule exclude investments by employees of the member, either because the employees are not related to the member's underwriting activities or because the employees (and their immediate families) invest through an "employee securities company." NASD Regulation finds that the suggested exclusion for "employee securities companies" would not distinguish between bona fide investments and investments for the purpose of obtaining additional underwriting compensation. Moreover, the six exceptions proposed herein provide sufficient opportunity for employees of members, as well as members, to acquire the securities of the issuer during the 180-day review period.

3. 180-Day Review Period

NASAA requested that NASD Regulation monitor the effectiveness of the 180-day review period by reviewing arrangements between issuers and underwriters in the 6-month period before the 180-day review period. According to NASAA's proposal, if NASD Regulation determines that the 180-day review period is not effective in regulating underwriting compensation, then it should expand the review period to 12 months. NASD Regulation notes that the information requested by NASAA will be contained in the public offering document filed with the Department for review. Department staff will have an opportunity to be alerted to the existence of any egregious arrangements that occur before the 180-day review period.

NASD Regulation does not agree with the request by M&F that the Rule should specifically exclude any items of value received by underwriters and related persons *prior* to the 180-day review period from the calculation of underwriting compensation, in light of the Association's general regulatory goals.

4. Requirements of the Exceptions From Underwriting Compensation

Commenters recommended the elimination and/or modification of many of the criteria and definitions of the proposed exceptions from underwriting compensation, in many cases arguing that the criteria was unnecessary to advance the purposes of the exception.[38] Of these, NASD Regulation has proposed to eliminate the provision prohibiting reliance on the exceptions during the 90-day period prior to filing; the provision in the second exception that would have required that an institutional investor be a member of the issuer's board of directors; and the requirement that members submit written procedures demonstrating that the member did not make its participation in the offering contingent on an acquisition of the issuer's securities. In addition, in response to comments, NASD Regulation is clarifying the application of many of the remaining criteria. NASD Regulation believes that the criteria, as amended, will be effective in distinguishing between securities acquired as bona fide investments from securities that are underwriting compensation for the public offering.

a. *Definition of Entity*—Commenters (Fried Frank, Goldman, and SIA) recommend that two or more entities that propose to be treated as a group should be permitted to demonstrate their bona fide identity as a group, even though they have not previously made a joint investment, through the terms of their contractual obligations, the occurrence of subsequent investments or otherwise, and should include

[37] The amendment proposed to subparagraph (b)(3)(ii) would eliminate the current requirement that fees paid to a previous underwriter for a failed offering be included in the calculation of underwriting compensation, even if the previous underwriter does not participate in the revised offering. The Rule would continue to prohibit payment of any compensation to a member for a failed offering, except for reimbursement of out-of-pocket expenses, in subparagraph (f)(2)(D) of this amended rule filing.

[38] However, Goldman and the SIA agreed with the 51% standard for institutional investor participation under the third exception.

entities that intend to file a Schedule 13D or 13G with the SEC in connection with the investment under consideration or a subsequent investment. Fried Frank also recommends that an entity include any entity that is, or the control persons of which are, under common control and entities whose investments are made under the direction of a common investment advisor or financial advisor. Chase requests that the definition of entity be expanded to include third-level subsidiaries under the common control of second-level subsidiaries that are contractually obligated to invest together and are under the common control of a bank.

NASD Regulation believes that the structures proposed by commenters would diminish the protections that are intended to be provided by the capital-under-management and non-participating member capital requirements in the first and second exceptions. Moreover, the commenters' proposal would appear to contradict the requirement that the entity (including a group qualifying as an entity) have a minimal history in being "primarily engaged in the business of making investments in or loans to other companies."

b. *Definition of Institutional Investor*—Fried Frank states that the requirement that an institutional investor have $50 million in securities under management for purposes of the second and third exceptions is excessive because it will disadvantage small members and prevent the issuer from choosing the underwriter that best suits its needs. NASD Regulation notes that small members that act as underwriters are generally better capitalized than members that engage only in retail brokerage activity—in part because of the net capital necessary to engage in underwriting activities. NASD Regulation does not believe that the Rule improperly disadvantages smaller underwriters, particularly as the exceptions are proposed to be expanded in this filing.[39]

c. *Second Exception—33% Limitation*—The second exception requires that institutional investors beneficially own at least 33% of the issuer's equity securities. Several commenters (Goldman, M&F, Merrill, Morgan, Salomon, and SIA) suggested decreasing the 33% threshold. NASD Regulation does not believe that this suggestion is consistent with the purposes underlying the exception because the second exception does not place any limitations on whether the investing entity is managed by a member, is funded by a member or its associated persons, or is a subsidiary of a member. Therefore, NASD Regulation believes that the 33% standard for institutional investor participation is necessary to prevent potential overreaching by a participating member.

d. *Fourth Exception—Limitation on Increasing Percentage Ownership*—The fourth exception prohibits investors from increasing their percentage ownership of the issuer's securities in reliance on the exception. Goldman and the SIA believe that investors should have the benefit of indemnification provisions with issuers that give the investor the right to receive additional shares if it appears later that the issuer misrepresented, for example, its capitalization at the time of the investment. NASD Regulation believes that the concerns articulated by the commenters are best addressed on a case-by-case basis.

These commenters recommend that the Association also permit investors to take advantage of anti-dilution protection for subsequent issuances to others, regardless of whether the investor has a preemptive right. Under the proposed rule change, any purchases for anti-dilution protection during the 180-day review period and subsequent to filing of a public offering must comply with the fourth or fifth exceptions in order to be excluded from underwriting compensation. Thus, additional purchases of the issuer's securities to prevent dilution are only permitted to maintain the purchaser's percentage ownership of the issuer's securities, if the purchaser exercises a preemptive right, is the subject of a pro-rata rights offering, or has a two-year prior investment history.

Fried Frank, Goldman, and Merrill state that there are circumstances in which some rights holders elect not to purchase, with the result that other rights holders who elect to purchase experience an increase in their percentage ownership. In addition, these commenters state that rights holders are generally permitted to purchase additional shares that are made available by the decision of other rights holders not to exercise. They recommend that such purchases not be treated as underwriting compensation. NASD Regulation disagrees. This exception is intended to recognize that an investor that has a preemptive right, or is the subject of a stock split, pro-rata rights offering, or stock conversion should not be disadvantaged by application of the Rule to the securities thereby acquired in order to prevent the investor's interest from being diluted. Thus, except for conversions, this exception, and exception five, allows the investor to *maintain* its percentage interest in the issuer, but does not allow the investor to *improve* its position.

5. Lock-Up Restriction

a. *Application To Securities That Are Not Deemed To Be Underwriting Compensation*—Goldman, Fried Frank, Merrill, and the SIA recommend that the lock-up restriction only apply to securities deemed to be underwriting compensation, arguing that the scope of the lock-up requirement does not protect investors when securities are not considered to be underwriting compensation and seriously threatens the economic interests of venture capital and other investors. NASD Regulation disagrees. In regulating resales of securities, the goals of the Rule are to:

- Protect the issuer and public investors by ensuring that the public market for the securities sold by participating members has an opportunity to develop prior to the sale of securities into the market by the underwriters and related persons that dilutes the public investors; and
- Prevent opportunities for fraud and manipulation in the after-market of a company's initial public offering or an offering of securities that are not sufficiently liquid when a member is an underwriter, actively trades the securities, and is a selling securityholder.

NASD Regulation's concern regarding potential market dilution and the opportunity for fraud and manipulation is the same, regardless of whether the securities that are sold by participating members into the public market are deemed to be underwriting compensation or were excluded from underwriting compensation.

b. *Time Period of Lock-Up*—Ohio favors the extension of the 90-day venture capital lock-up from 90 to 180 days, but joins with NASAA in opposing the shortening of the compensation lock-up to 180 days, believing the current one-year period to be an appropriate and prudent standard for securities deemed to be underwriting compensation, particularly in smaller offerings where there may be less information about the issuer. M&F is opposed to the imposition of a flat 180-day lock-up period on securities of an issuer held by underwriters, preferring that NASD Regulation lock-up be the same as that imposed by the issuer on its management and other major

[39] Moreover, small members will benefit from the shortening of the review period, the elimination of the 10% stock numerical limitation, and the elimination of the prohibition on members receiving warrants with an exercise price below the public offering price.

securityholders. In addition, Fried Frank and M&F suggest that the lock-up be 30 or 90 days for follow-on offerings.

NASD Regulation continues to believe that a lock-up period of 180-days for initial public offerings and follow-on or secondary offerings where the market for the security is not sufficiently liquid is necessary to protect the after-market from potential manipulation.

c. *Exceptions to the Lock-Up*—Goldman recommends an additional exception from the proposed lock-up requirement for transfers to an affiliate of a member. NASD Regulation believes that such transfers to affiliates of members are best addressed on a case-by-case basis. Department staff have previously permitted such transfers when the securities were owned by the member firm, the transfer was without any payment, and the purpose of the transfer was to avoid net capital or other tax consequences to the member during the time of the resale restriction.

Fried Frank requests that the exception for securities priced by a qualified independent underwriter be retained, citing the statement in Notice to Members 86–1 where the Association stated that "[t]he presence of an independent underwriter to conduct pricing and due diligence is sufficient protection against potential conflicts of interest to justify an exemption from the [venture capital] restrictions." NASD Regulation has reconsidered the efficacy of this exception and now believes that the presence of a qualified independent underwriter fails to address the potential negative dilutive effect of such sales on the public market in the case of an initial public offering or any offering of a security that is not sufficiently liquid. NASD Regulation believes that a better standard is the "actively traded security" test of SEC Regulation M that is proposed as an exception to the lock-up restriction for securities acquired prior to the 180-day review period, as the Regulation M standard would define a liquid market.

6. Other Comments

a. *Exemption for Shelf Offerings on Forms S–3 and F–3*—The SIA and Merrill request that NASD Regulation amend its current exemption from filing for shelf offerings on Forms S–3 and F–3 to rely on the current standards for these forms to reduce unnecessary complexity and burden. In addition, the SIA requested that the NASD eliminate its interpretation published in Notice to Members 93–88 that the exemption is only available for shelf offerings for which there is a genuine intention to make a delayed offering (*i.e.*, the filing exemption is not available where the Rule 415 box is checked only for convenience). Alternatively, the SIA recommends that NASD Regulation specifically incorporate this interpretation into the Rule. The staff is currently developing a proposal related to the application of the Rule to shelf registered offerings and NASD Regulation plans to address these comments in connection with that proposal.

b. *Exemption from Compliance for Investment Grade Debt Offerings*—TBMA recommends that the exemption under Rule 2710(b)(7) for offerings by issuers with investment grade debt outstanding and for investment grade debt offerings should be moved to Rule 2710(b)(8) in order to provide an exemption from the substantive requirements of the Rule. Investment grade debt offerings rarely involve issues concerning underwriting terms and arrangements. However, the practical effect of TBMA's recommendation would be to exempt such offerings from the filing and substantive requirements of Rule 2720, the NASD's conflict-of-interest rule, when the offering is of the securities of a member, the member's parent, or an affiliate of a member. NASD Regulation does not believe this exemption is warranted at this time.

c. *Delayed Offerings*—Chase believes that the Rule should provide that in situations where a registration statement has been on file for more than three months without an amendment filing, the NASD Regulation value underwriting compensation by reviewing the 180-day period prior to filing of an amendment. The staff considers circumstances such as these on a case-by-case basis. The Department has, at times, granted requests to exclude from underwriting compensation securities that were acquired within the 180-day review period, but more than a year before the anticipated public offering date of a delayed offering.

d. *Definition of Underwriter and Related Person*—The SIA and Goldman recommend that the definition of "underwriters and related persons" be amended to exclude selling group members, arguing that issuers do not have a relationship with selling group members and do not have an economic incentive to provide extra or illicit compensation to selling group members in the form of low-cost securities or otherwise. These commenters argue that applying the compensation rules to selling group members would present a burden on capital formation, excluding willing sellers with no demonstrable benefit. NASD Regulation believes that this proposal would provide an opportunity for circumvention of the Rule's compensation limits by members willing to limit their role in the offering in exchange for the ability to acquire the securities of the issuer on a pre-offering basis. NASD Regulation believes that the broad scope of the definition of underwriter and related persons has operated effectively in carrying out the issuer and investor protection purposes of the Rule.

Merrill recommends that the definition be amended to exclude only those persons or entities affiliated with a member that have knowledge of the offering based on their roles at the member or ownership interest in the issuer. NASD Regulation does not believe that "knowledge of the offering" is a verifiable standard for determining the scope of the application of the Rule to acquisitions of the issuer's securities. In addition, if the purpose of this proposal is to exclude cash fees received for ordinary business by affiliates of a member, NASD Regulation believes that the proposed rule change properly identifies situations where fees received by members' affiliates are considered to be unrelated to the public offering.

e. *Calculation of Underwriting Compensation Based on Integrated Transactions*—Morgan recommends that several registered transactions that are part of a coherent financing schedule where each is contingent on each other, should be treated as a single offering for the calculation of underwriting compensation. NASD Regulation will consider such treatment on a case-by-case basis, where allocation of a member's acquisition of the issuer's securities to a coherent group of related financing transactions appears appropriate in light of the total capital-raising obligations of the member.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NASD Regulation consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

arguments concerning the foregoing, including whether Amendment No. 5 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the File No. SR–NASD–00–04 and should be submitted by April 4, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[40]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–6275 Filed 3–13–01; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44042; File No. SR–NASD–99–66]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 2, 3, and 4 by the National Association of Securities Dealers, Inc. Relating to the Implementation of Mandatory Trade Reporting for PORTAL Securities

March 6, 2001.

I. Introduction

On October 28, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the implementation of mandatory trade reporting for PORTAL securities. On December 30, 1999, the NASD filed Amendment No. 1.[3] The proposed rule change, including Amendment No. 1, was published for comment in the **Federal Register** on January 13, 2000.[4] The Commission received one comment letter regarding the proposal.[5] In response thereto, on April 4, 2000, the NASD filed Amendment No. 2.[6] On January 23, 2001, the NASD filed Amendment No. 3.[7] On February 22, 2001, the NASD filed Amendment No. 4.[8]

This order approves the proposed rule change, as amended. In addition, the Commission is approving on an accelerated basis, and soliciting comments on, Amendment Nos. 2, 3 and 4.

II. Description

A. Overview

The Nasdaq Stock Market, Inc. ("Nasdaq") operates the PORTAL Market for securities that were sold in private placements and are eligible for resale under SEC Rule 144A, adopted under the Securities Act of 1933 ("Securities Act").[9] The NASD is proposing to amend the rules governing The PORTAL Market ("PORTAL Rules") in the Rule 5300 Series to require that NASD members submit trade reports of secondary market transactions in PORTAL-designated equity securities through the Automated Confirmation Transaction Service ("ACT") and in PORTAL U.S. high-yield debt securities through the Trade Reporting And Comparison Entry Service ("TRACE").[10]

Under the proposed revisions to the PORTAL Rules, members will be required to report secondary market transactions in PORTAL equity securities through ACT, subject to certain exemptions. Members will not be required to use ACT's automated services for comparison, confirmation, and the forwarding of confirmed trades to Depository Trust Corporation ("DTC") for settlement, however, these services will remain available for members that chose to use them. There will be no public dissemination of information in trade reports submitted to the association with respect to PORTAL securities and depository-eligible Rule 144A investment grade rated debt issues.

The NASD intends to amend several of the definitions contained in Rule 5310 of the PORTAL Rules as well as the Reporting Requirements contained in Rule 5332 of the PORTAL Rules to mandate reporting of secondary market transactions in PORTAL debt and equity securities. NASD has also proposed revisions to the PORTAL Rules governing the security designation application process. As a result of these revisions, a majority of the remaining provisions will be obsolete, and the NASD proposes to delete them.

B. Definitions

As part of its proposal to revise the PORTAL Market, the NASD has proposed new definitions for the terms "PORTAL equity security" and "PORTAL debt security." Under the proposed definition, a PORTAL equity security will include any:

> Security that represents an ownership interest in a legal entity, including but not limited to any common, capital, ordinary, preferred stock, or warrant for any of the foregoing, shares of beneficial interest, or the equivalent thereof (regardless of whether voting or non-voting, convertible or non-convertible, exchangeable or non-exchangeable, exercisable or non-exercisable, callable or non-callable, redeemable or non-redeemable).

[40] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Suzanne Rothwell, Chief Counsel, Corporate Financing, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated December 29, 1999 ("Amendment No. 1").

[4] *See* Securities Exchange Act Release No. 42310 (January 3, 2000), 65 FR 2207. A correction notice was published in the **Federal Register** correcting a typographical error in the docket number on February 14, 2000. *See* 65 FR 7418.

[5] *See* Letter from Douglas L. Williams, Executive Vice President, Wachovia Securities, Inc., to Secretary, Commission, dated February 2, 2000.

[6] *See* Letter from Suzanne Rothwell, Chief Counsel, Corporate Financing, NASD, to Katherine A. England, Assistant Director, Division, Commission, dated April 4, 2000 ("Amendment No. 2"). In Amendment No. 2, the NASD responded to comments made by a commenter, and submitted substantive amendments to the proposal. The substance of Amendment No. 2 is reflected throughout this order.

[7] *See* Letter from Suzanne Rothwell, Chief Counsel, Corporate Financing, NASD, to Katherine A. England, Assistant Director, Division, Commission, dated January 18, 2001 ("Amendment No. 3"). In Amendment No. 3, the NASD revised the proposed definition of "PORTAL Debt Securities" to conform it to the definition of TRACE-eligible security approved in File No. SR–NASD–99–65. *See* Securities Exchange Act Release No. 43873 (January 23, 2001), 66 FR 8131 (January 29, 2001).

[8] *See* Letter from Suzanne Rothwell, Chief Counsel, Corporate Financing, NASD, to Katherine A. England, Assistant Director, Division, Commission, dated February 16, 2001 ("Amendment No. 4"). In Amendment No. 4, the NASD made a technical amendment to the language of Rule 5350 of the PORTAL Rules and to clarify the proposed effective date for the PORTAL Rules.

[9] 15 U.S.C. 77(a).

[10] ACT is a system, operated by Nasdaq, that accommodates the reporting and dissemination of last sale reports for secondary market transactions in equity securities (including preferred stock issues), and provides automated comparison and confirmation services and forwards confirmed trades to DTC for settlement. TRACE is a service to be operated by Nasdaq to provide services similar to those of ACT for secondary market transactions in certain SEC registered debt and Rule 144A investment grade rated debt issues that are eligibla for book-entry services at DTC.

The definition of a PORTAL debt security is proposed to include:

All PORTAL securities that are United States dollar denominated debt securities issued by United States and/or foreign private corporations, but shall not include mortgage- or asset-backed securities, collaterialized mortgage obligations, money market instruments, or municipal and municipal-derivative securities.[11]

The NASD has also proposed a definition for "time of execution." Under the proposal, the "time of execution" will be:

The time when all of the terms of a transaction in a PORTAL security have been agreed to that are sufficient to calculate the dollar price of the transaction and a determination has been made that the transaction is in compliance with Rule 144A or any other applicable exemption from registration under Section 5 of the Securities Act.

According to this definition, the time for reporting a transaction in a PORTAL equity security or a PORTAL debt security will be the time of execution. The time of execution will be the time included in transaction reports.[12]

The NASD has proposed to revise the definition of "PORTAL Market System" to mean one or more computer systems that may be designated by the NASD to accept trade reports or to display transaction, quotation or other information on PORTAL securities. Both ACT and TRACE will be PORTAL Market systems under this definition.

The NASD also proposed to revise the definition of "PORTAL transaction report" to mean a report of a transaction in a PORTAL security submitted by a member through a designated PORTAL Market system.[13]

The PORTAL Rules contain a number of definitions that relate to the initial concept for the market, which originally included reporting, comparison, and settlement of PORTAL trades directly through a PORTAL Market computer. The NASD believes that these rules no longer have any application under the proposed change to the PORTAL Market, and therefore has proposed that the following terms and definitions be deleted in their entirety: "PORTAL account instruction system," "PORTAL clearing organization," "PORTAL clearing system," "PORTAL depository organization," "PORTAL depository system," "PORTAL Market information," "PORTAL non-participant report," "PORTAL surveillance report," and "Short Sale."

In addition, based on the proposed changes to the PORTAL Market, the NASD believes it is no longer necessary to qualify members as "PORTAL dealers" or "PORTAL brokers" or to quality investors as "PORTAL qualified investors" for the purpose of entering quotations and viewing quotations in the PORTAL Market. Accordingly, the NASD has proposed to delete the definitions of: "PORTAL broker," "PORTAL dealer," "PORTAL participant," and "PORTAL qualified investor."

Moreover, the NASD proposed to delete the term "execution" as it believes it would be inconsistent with the proposed definition of the term "time of execution."

C. Reporting Requirements

In place of the current reporting requirements, the NASD has proposed that two new provisions be adopted in Rule 5332 which would obligate members to report secondary market transactions in PORTAL equity and PORTAL debt securities through ACT and TRACE, respectively.

1. Transaction Which Must Be Reported

Proposed Rule 5332(a) would require that all secondary market "transactions" [14] in PORTAL equity securities be reported through ACT, subject to certain exceptions discussed below. Members would be permitted, but not required, to use the confirmation, comparisons, and settlement features of ACT with respect to secondary market transactions in PORTAL equity securities.[15]

Proposed Rule 5332(b) would require that all secondary market transactions in PORTAL debt securities be reported to the TRACE in accordance with the NASD Rule 6200 Series, which include exceptions from reporting as discussed below.[16] All secondary market transactions in PORTAL debt securities will be required to comply with all TRACE Rules, including rules mandating reporting and comparison.

The NASD proposed to renumber subparagraph (d) of Rule 5332 subparagraph (c), and to delete extraneous language from the Rule. The NASD intends that the Rule, as amended, will clarify that members are obligated to report the resale of PORTAL securities:

- Into the U.S. public market under the exemption provided by SEC Rule 144; and
- From the U.S. private market to an offshore market or from an offshore market to the U.S. private market.

However, transaction in PORTAL securities that have been sold offshore under the exemption from registration provided by Regulation S, where the resale transaction is entirely offshore, are not reportable.

2. Exceptions to Reporting Requirements

Under the proposal, the exceptions to the transaction reporting obligations for PORTAL equity and PORTAL debt securities would be the same. These exceptions are contained in NASD Rule 6320(e)(1)–(4), which was approved as part of the NASD's TRACE proposal.

3. Submission of Transaction Reports

Under the proposal, PORTAL transaction reports for equity securities must be submitted to ACT no Later than 6:30 p.m. Eastern Time, or by the end of the ACT reporting session that is in effect at the time. Transaction reports for PORTAL debt securities must be submitted within the time frame proposed for debt securities subject to mandatory reporting through TRACE.

4. PORTAL Market Fees

Under the proposal, members submitting trade reports to ACT with respect to secondary market transactions for PORTAL equity securities would be subject to the same fees currently imposed on other members reporting through ACT under the NASD Rule 7000 Series.[17]

D. Designation of PORTAL Securities

NASD Rule 5321 currently requires that a PORTAL dealer or broker submit an application for designation of a security as a PORTAL security. According to the NASD, because it will not be necessary to qualify brokers and dealers as PORTAL dealers and brokers under the proposed rule change, the Association proposed to amend Rule

[11] *See* Amendment No. 3, *supra* note 7.

[12] *See* Proposed NASD Rule 5332(a)(1).

[13] Previously, PORTAL transaction reports were only to be submitted by a broker/dealer qualified as a PORTAL broker or PORTAL dealer and such reports were required to be submitted within 15 minutes of the execution of the transaction.

[14] The definition of the term "transaction" includes any purchase or sale of a PORTAL security and is only intended to refer to secondary market transactions.

[15] The NASD is not amending the definition of an "ACT eligible security" to include PORTAL equity securities. Instead, as set forth in Securities Exchange Act Release No. 40424 (Sept. 10, 1998), 63 FR 49623 (Sept. 16, 1998), the definition of an "ACT eligible security" will continue to be interpreted to include all securities designated as PORTAL securities to the extent transactions in such securities are voluntarily submitted to ACT solely for comparison, confirmation, and/or clearance and settlement.

[16] This rule was approved as part of the TRACE proposal. *See* note 7, *supra*.

[17] The NASD proposes to delete a general provision in NASD Rule 5374 of the PORTAL Rules setting out the Association's authority to impose fees for PORTAL transactions as it is unnecessary.

5321(a) to permit any member of the NASD, or the issuer of a security, to submit an application for designation of a security as a PORTAL security. The NASD also proposed conforming changes to Rule 5323(b) with respect to the procedures for notification to members if the designation of a PORTAL security is suspended or terminated, and to Rule 5324 (to be redesignated Rule 5323) to require that the application fee for PORTAL designation be paid by the issuer or member submitting the application.

In addition, the NASD proposed a requirement that any applicant seeking PORTAL designation promptly advise the NASD when the issuer has submitted a registration statement to the Commission to register: (1) The resale of a PORTAL security; (2) securities to be exchanged for a PORTAL security; or (3) securities into which the PORTAL security is exchangeable or convertible.[18] In addition, the applicant would be required to advise the NASD of the effectiveness of the registration statement. The NASD intends this provision to provide information to the NASD that will allow it to delete a PORTAL security from its list of current PORTAL securities when the registration statement is declared effective. At that point, any resale of a former-PORTAL designated security will be accomplished through the registered securities.

Proposed Rule 5321(c) would also require an applicant to advise the NASD when a CUSIP or CINS security identification is assigned at issuance to the PORTAL security or any tranch of a PORTAL security issue. The NASD intends this provision to ensure that it is advised of additional CUSIP numbers as they are assigned in a timely manner.[19] The NASD believes that this information will facilitate its ability to accept trade reports of secondary market transactions in PORTAL securities. In order to provide flexibility in the operation of this provision, the NASD proposed that the issuer may provide these undertakings in lieu of a member-applicant.[20]

The NASD further proposed that the qualification requirements for PORTAL securities in Rule 5322(a)(3) be amended to require that a PORTAL security be a "depository eligible security." The definition of this term in Rule 11310 would operate to include only securities with book-entry services at DTC. Consistent with this change, NASD also proposes to amend Rule 5322(a)(4) to delete the requirement that PORTAL securities be in certificated form.

The NASD proposes to relocate that part of Rule 5360 that sets forth the right of an aggrieved person to seek review by the NASD of a denial, suspension or termination of PORTAL-designation status to Rule 5324.

E. Deletion of Obsolete Provisions

The NASD is proposing to delete a large number of provisions of the PORTAL Rules. In addition to the deletions discussed above, the NASD proposes to delete other provisions in their entirety as obsolete under the proposed revised rules.

1. Registration of PORTAL Dealers, Brokers, and Qualified Investors

The original concept of the PORTAL Market was that approved broker/dealers and investors would trade in a closed system. The NASD proposes to delete the remnants of this concept that remain in the PORTAL Rules. Thus, it is proposed that the following rules be deleted that would register PORTAL dealers, brokers, and qualified investors (together, PORTAL participants): Rules 5338, 5339, 5340, 5350, 5351, 5352, and 5353. The NASD also proposes to delete Rule 5360, which includes the procedures for appeal by a PORTAL participant of any denial, suspension or termination of its registration. The section of Rule 5360 that related to appeal rights regarding the designation of a PORTAL security has been incorporated into proposed Rule 5324.

The NASD has proposed that the majority of the current provisions contained in Rule 5332, which require that PORTAL dealers and brokers report transactions in PORTAL securities, be deleted. The NASD also proposes to delete other provisions that relate to the initial concept. for the reporting, comparison, and settlement of PORTAL trades directly through a PORTAL Market computer system. These include Rules 5333 and 5337, which set out the requirements for PORTAL trade comparison and settlement, and Rule 5334 which sets out the contents of a required trade report and the manner of reporting and requires that PORTAL trade reports be disseminated. Also proposed to be deleted are Rules 5335 and 5336, which required broker/dealers that were not approved as PORTAL dealers or brokers to submit a separate trade report and required another trade report (called the "Surveillance Report") for reporting the initial sale to a QIB by the broker/dealer under SEC Rule 144A.

2. Quotations, Trading, Uniform Practice

The PORTAL Rules currently contain a large number of obsolete provisions that were intended to regulate the quotation and trading of PORTAL securities between PORTAL participants on a PORTAL-designated computer system. The NASD proposes to delete these provisions. Specifically, the NASD proposes to delete: the provisions that relate to the quotation of PORTAL securities (Rules 5372, 5373, 5375, 5376, and 5377) and uniform practice (Rules 5378, 5379, and 5380).[21]

G. Examinations and Surveillance

Surveillance of PORTAL equity securities will be encompassed within parts of the current surveillance procedures for transaction reporting into ACT. Surveillance of transaction reports submitted with respect to PORTAL debt securities will be encompassed within the surveillance plan for TRACE.

III. Summary of Comments

The Commission received one comment letter on the proposed rule change.[22] The Commenter expressed opinions on four aspects of the proposal: the effect the proposed changes may have on the liquidity of securities eligible for resale under SEC Rule 144A, the continued existence of the PORTAL Market, proposed Rule 5321(c) relating to who is responsible for notifying the NASD when a registration statement for a PORTAL security has been filed with the Commission, and the effect of the proposed deletion of Rule 5392.

The Commenter first noted that under proposed Rule 5333, NASD members would be prohibited from entering quotations in PORTAL securities into any inter-dealer quotation medium.[23] The Commenter stated that this prohibition is not required by Rule 144A, or any other existing federal securities law, that the prohibition would eliminate virtually all liquidity in the market for high yield 144A eligible securities and that Rule 144A

[18] See Proposed NASD Rule 5321(c).

[19] Similar to SEC registered offerings, in some cases a private placement will describe a debt issuance that will be done in tranches over a period of time. Each tranch is assigned a different CUSIP number as it is issued.

[20] See Proposed NASD Rule 5321(c).

[21] The NASD's Uniform Practice Code has been amended to apply to resales of restricted securities as defined in Rule 144(a)(3) under the Securities Act. See Securities Exchange Act Release No. 38491 (April 9, 1997), 62 FR 18665 (April 16, 1997).

[22] See note 5, *supra*.

[23] Pursuant to Securities Act Rule 144A, broker/dealers are permitted to enter quotations in an inter-dealer quotation system as long as the offer is made to QIBs or persons whom dealers reasonably believed to be QIBs. The proposed NASD rule would prohibit the entry of quotations, even if the broker/dealer desires to offer a security to a QIB.

does not prohibit broker/dealer from entering quotations in an inter-dealer quotation system as long as the offer is made only to QIBs or dealers reasonably believed to be QIBs. In response to the Commenter, the NASD acknowledged that this was an unintended effect of the proposed Rule, and amended the proposed rule to delete the prohibition.[24]

Next, the Commenter concurred with the NASD's contention that the PORTAL Market has not devleoped as anticipated. The Commenter stated that while the security market in 144A securities has flourished over the last 10 years, the market-related activities of the PORTAL market have not. The commenter opined that this is because institutional investors have found alternative trading venues that offer greater liquidity than the PORTAL Market. The Commenter therefore recommended that the NASD eliminate the PORTAL Rules altogether, and incorporate any rules necessary for the surveillance of resale of Rule 144A securities into the ACT rules.

The NASD responded to this comment by explaining that it believes that the specific "PORTAL" identity for certain Rule 144A securities is necessary in order for members to properly distinguish between the obligations imposed by the ACT and TRACE Rules with respect to Rule 144A/Non-PORTAL and Rule 144A/PORTAL securities, and therefore does not feel it is appropriate to eliminate the PORTAL Rules in their entirety.

The Commenter next expressed concern regarding proposed Rule 5321(c). This proposed rule would require that a broker/dealer-applicant, or the issuer of the security, advise the NASD if the issuer files a registration statement with the Commission, or if a PORTAL Security is assigned a CUSIP or CINS number. While the Commenter recognized the NASD's need to be made aware of these activities, it suggested that instead of requiring the broker/dealer or the issuer to notify the NASD if a registration statement is filed, the NASD should place this burden on the lead underwriter of the security. The Commenter reasoned that the broker/dealer-applicant may no longer be active in the security at the time a registration statement is filed, and therefore, the burden would be more properly placed on the lead underwriter as he or she would be expected to know if and when such a filing were made.

In response to this comment, the NASD explained that proposed Rule 5321(c) would not apply to all Rule 144A securities. Rather, the Rule would apply only to PORTAL-designated securities that are assigned a CUSIP number at issuance and have book-entry services at the DTC.[25] The NASD represented that it was "exceedingly rare for the NASD to receive an application for designation of a PORTAL Security subsequent to the issuance of the security." [26] The NASD explained that the proposed Rule was intended to eliminate the requirement that dealers and brokers register as "PORTAL" dealers and brokers, and to permit any broker/dealer or the issuer to submit an application for designation of a security in the PORTAL Market.[27]

Lastly, the Commenter questioned the NASD's proposed deletion of current Rule 5392. The Commenter explained that if the Rule were deleted, an important exemption from the NASD rule that requires that broker/dealers obtain quotations from three dealers (or all dealers if three or less exist) to determine the best inter-dealer market for a security before executing a trade, even in circumstances where the broker/dealer already knows of a QIB interested in buying the security. The Commenter stated that this requirement is not necessary for Rule 144A Securities because the QIBs to whom these securities are sold generally know as much about the markets and the values of the securities as the dealers in those securities. The Commenter opined that the imposition of the aforementioned requirement would be a "strong incentive for dealers to withdraw most or all of the capital they currently have committed to securities eligible for resale under Rule 144A."

In response to these comments, the NASD has proposed to retain current Rule 5392 and renumber the provision as Rule 5350.[28]

IV. Discussion

After carefully considering all of the comments, the Commission finds, for the reasons discussed below, that the proposed rule change is consistent with the Act and the rules and regulations applicable to the NASD. In particular, the Commission finds that the proposal is consistent with the requirements of section 15A(b)(6) and (11), and 11A(a)(1)(C) of the Act.[29]

Section 15A(b)(6) requires that the rules of a registered national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Section 15A(b)(11) requires that the rules of a registered national securities association include rules governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange, and the person to whom such quotation may be supplied. These rules must be designed to produce fair and informative quotations, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing, and publishing quotations. In Section 11A(a)(1)(C)(iii), Congress found that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations and transactions in securities.

The Commission recognizes that the PORTAL Market has not developed as originally envisioned by the NASD. Over the last ten years, despite the NASD's efforts to encourage use of the PORTAL Market as a trading venue for Rule 144A securities, currently, its only function is reviewing whether issues of privately placed securities meet the eligibility requirements of Rule 144A. The instant rule filing represents the NASD's attempt to revitalize the Market by paring down its rules and regulations regarding who can trade PORTAL securities, and clarifying the requirements for reporting transactions involving PORTAL securities.

The Commission believes that the proposed rule change will significantly simplify the PORTAL Market specifically in that members will only be required to report secondary market transactions in PORTAL equity securities through ACT. Members will not be required to use ACT's automated services for comparison, confirmation, and the forwarding of confirmed trades to DTC for settlement and may use other systems that offer greater liquidity and incentives to trade Rule 144A securities. Also, the proposed rule change eliminates the requirement that those using the PORTAL Market receive designation as "PORTAL" brokers, dealers or investors. All NASD members

[24] *See* Amendment No. 2, *supra* note 6.

[25] *See* Amendment No. 2, *supra* note 6.

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] 15 U.S.C. 78o–3(b)(6) and (11), and 15 U.S.C. 78k–1(a)(1)(C).

and issuers will now have access to the PORTAL Market. The Commission believes that this simplification and expansion of access will serve to remove impediments to the Market, and will help to perfect the mechanics of the Market in accordance with the goals stated in section 15A(b)(6).

The proposed Rules also make clear exactly what information is required to be reported with regard to PORTAL Securities, as well as, the party who is expected to do the reporting. By implementing clear and concise standards for reporting, the Commission believes that there will be less opportunity for fraudulent and manipulative practices. As such, the proposed Rules are consistent with sections 15A(b)(6) and 15A(b)(11).

The Commission believes that the overall changes to the PORTAL Market proposed by the NASD will assure that brokers, dealers and qualified investors will continue to have ready access to quotations in Rule 144A securities. Although the NASD originally proposed to prohibit members from entering quotations in PORTAL securities in electronic communication networks or other inter-dealer quotation markets, it recognized that this prohibition might have a negative effect on liquidity in the market for high yield Rule 144A eligible securities, and withdrew the prohibition. The Commission believes that the decision to withdraw the prohibition was appropriate and consistent with section 11A(a)(1)(C)(iii) in that it assures the availability to brokers, dealers, and investors of information with respect to quotations and transactions in securities.[30]

The Commission reminds broker/dealers that offers and sales of Rule 144A eligible securities that are made in reliance on Rule 144A must comply with the conditions of Rule 144A. This includes the requirement that offers of securities under Rule 144A, through an inter-dealer quotation system or otherwise, must be made only to a QIB or to an offeree that the seller reasonably believes is a QIB.

In sum, the Commission believes that the proposal is consistent with the Commission's efforts to increase secondary market liquidity in restricted securities eligible to be sold in reliance on Rule 144A, while providing appropriate controls to protect against violations of the federal securities laws.

[30] In approving the proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

V. Amendment Nos. 2, 3 and 4

The Commission finds good cause for approving Amendment Nos. 2, 3 and 4 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. In Amendment No. 2, the NASD proposed to delete proposed Rule 5333, which would have prohibited members from entering quotations in any PORTAL security in any electronic communication network or other inter-dealer quotation system. The NASD explained that this prohibition was not necessary to fulfill the purpose of the rule filing, and could have the unintended effect of reducing liquidity in PORTAL securities.

Also, the NASD proposed to retain current Rule 5392, which it had planned to delete in the original filing, and renumber it Rule 5350. The NASD explained that this Rule was needed to provide clarity regarding the application of the NASD Conduct Rules to transactions in PORTAL securities.

The Commission believes that the changes proposed in Amendment No. 2 strengthen and clarify the proposed rule change, and provide additional benefits to investors. Therefore, the Commission finds that granting accelerated approval to Amendment No. 2 is appropriate and consistent with sections 15A(b)(6), (11) and 19(b)(2) of the Act.[31]

Amendment No. 3 revises the definition of "PORTAL Debt Securities" contained in NASD Rule 5310(e) in order to conform it to the amended definition of "TRACE-eligible securities."[32] The definition of TRACE-eligible securities was previously approved.[33] Accordingly, the Commission believes that there is good cause, consistent with Sections 15A(b)(6) and 19(b)(2) of the Act[34] to approve Amendment No. 3 to the proposal on an accelerated basis as Amendment No. 3 will make the two sets of rules consistent, thus aiding compliance with the rules.

Finally, the Commission believes that it is appropriate to grant accelerated approval to Amendment No. 4. In Amendment No. 4, the NASD proposed effective dates for the amended PORTAL Rules. The NASD proposed that all proposed amendments to the PORTAL Rules be effective upon the date of approval of this proposed rule change with the following exceptions:

(1) The reporting requirements for PORTAL equity securities will be effective three months after the issuance of a Notice to Members by the Association; and (2) the reporting requirements for PORTAL debt securities will be effective on a date announced in a subsequent Notice to Members regarding implementation of TRACE Rules. The Commission believes that these time frames are reasonable and should give members adequate time to prepare for the revised reporting requirements. Other changes effected by Amendment No. 4 are technical in nature and were added for clarification only.

For these reasons, the Commission finds good cause, consistent with sections 15A(b)(6) and 19(b)(2) of the Act,[35] to accelerate approval of Amendment No. 4 to the proposed rule change.

Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 2, 3 and 4, including whether the proposed amendments are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed amendments that are filed with the Commission, and all written communications relating to the amendments between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–99–66 and should be submitted by April 4, 2001.

VII. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act and the rules and regulations thereunder applicable to a national securities association.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[36] that the proposed rule change (SR–NASD–99–66), as amended be and hereby is approved.[37]

[31] 15 U.S.C. 78o–3(b)(6), (11) and 78s(b).

[32] *See* Amendment No. 4 to SR–NASD–99–65, *supra* note 7.

[33] *See id.*

[34] 15 U.S.C. 78o–3(b)(6) and 78s(b).

[35] 15 U.S.C. 78o-3(b)(6) and 78s(b).

[36] 15 U.S.C. 78s(b)(2).

[37] Within 60 days of the date of this order, the NASD will circulate a Notice to Members

Continued

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[38]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–6277 Filed 3–13–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3320, Amdt. 1]

State of Washington

In accordance with a notice received from the Federal Emergency Management Agency, dated March 6, 2001, the above-numbered Declaration is hereby amended to include Grays Harbor and Snohomish counties in the State of Washington as disaster areas due to damages caused by the earthquake on February 28, 2001.

In addition, applications for economic injury loans from small businesses located in Skagit County may be filed until the specified date at the previously designated location. Any counties contiguous to the above named primary counties and not listed here have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is April 30, 2001 and for economic injury the deadline is November 30, 2001.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 8, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–6305 Filed 3–13–01; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends Parts S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Notice is given that Chapter S is being amended to elevate the Office of the Deputy Commissioner of Social Security (SA) to an independent component within the Office of the Commissioner and to delineate the functional responsibilities of that Office. The new material and changes are as follows:

Section SA.10 *The Office of the Commissioner*—(Organization):

Delete:

B. The Office of the Deputy Commissioner of Social Security (SA).

Establish:

B. The Office of the Deputy Commissioner of Social Security (SAP).

Section SA.20 *The Office the Commissioner*—(Functions):

Delete in its entirety:

B. The Deputy Commissioner of Social Security (SA).

Establish:

B. The Deputy Commissioner of Social Security (SAP) assists the Commissioner in carrying out his/her responsibilities and performs other duties as the Commissioner may prescribe. As the agency's chief operating officer sets direction and oversees, through subordinate functional Deputy Commissioners, all aspects of the Agency's daily operations; continuously monitors and evaluates the Agency's performance and resource utilization; ensures that the components complete major functions and initiatives effectively, efficiently and timely; and communicates regularly with senior staff regarding matters about which the Deputy Commissioner has made assignments or about which there is Agency-level impact. At the direction of the Commissioner: oversees the development of the Agency's legislative and regulatory agenda; works with functional deputy commissioners in the development of significant policy directives and regulatory packages; and handles contacts and negotiations with key officials from other Government agencies on matters involving Agency policy, programs and operations that relate to the Executive Office of the President or other governmental bodies. The Deputy Commissioner provides leadership and oversight for the administration and management of information technology resources and budget; oversees development of policy for information technology infrastructure design and implementation and the development of customer focused Internet strategy for informational and transactional service delivery; provides oversight and direction for new/major business process redesign activity, including chairing executive steering committees which address cross-component issues/activities related to start-up, operation and implementation of business process changes; facilitates the development of the Agency's communications strategy and key messages; carries out a comprehensive and continuing program of public information and public relations, meeting with a wide array of internal and external stakeholders; chairs ad hoc internal executive steering groups to support and foster innovation and change management initiatives; carries out fully all delegation of authority functions in accordance with Agency policy; serves, as necessary, as the Agency's principal witness at congressional hearings involving Social Security related issues; serves as a member of the President's Management Council; serves as the Chair for the Executive Resources Board; and serves as the Secretary to the Social Security Board of Trustees.

The Chief Information Officer (CIO) is also located in the Office of the Deputy Commissioner but reports to the Commissioner of Social Security on statutorily defined CIO duties. In addition, the CIO will function as a key advisor to the Deputy Commissioner.

Dated: March 1, 2001.

William A. Halter,

Acting Commissioner of Social Security.

[FR Doc. 01–6320 Filed 3–13–01; 8:45 am]

BILLING CODE 4191–02–M

DEPARTMENT OF STATE

[Public Notice No. 3586]

Advisory Committee on International Economic Policy; Meeting Notice

The Advisory Committee on International Economic Policy (ACIEP) will meet from 9:00 a.m. to 12:30 p.m. on Tuesday, March 27, 2001, in Room 1107, U.S. Department of State, 2201 C Street, NW, Washington, D.C. 20520. The meeting will be hosted by Committee Chairman R. Michael Gadbaw and by Assistant Secretary of State for Economic and Business Affairs E. Anthony Wayne.

The ACIEP serves the U.S. Government in a solely advisory capacity concerning issues and problems in international economic policy. The objective of the ACIEP is to provide expertise and insight on these issues that are not available within the U.S. Government.

Topics for the March 27 meeting will be:

- The U.S. International Economic Agenda
- Focus on the Western Hemisphere
- The Role of the ACIEP

The public may attend these meetings as seating capacity allows. The media is welcome but discussions are off the record. Admittance to the Department of State Building is by means of a pre-

announcing the approval of the proposal. Trade reporting obligations for PORTAL Equity Securities will be effective three months after the Notice to Members is published. Trade reporting obligations for PORTAL Debt Securities will be effective in accordance with the implementation schedule set out in the TRACE approval order. *See* note 7, *supra*.

[38] 17 CFR 200.30–3(a)(12).

arranged clearance list. In order to be placed on this list, please provide your name, title, company or other affiliation if appropriate, social security number, date of birth, and citizenship to the ACIEP Executive Secretariat by: phone at (202) 647–1826; fax (202) 647–5936 (Attention: Deborah Grout); or email (groutdz@state.gov) by Friday, March 23, 2001. On the date of the meeting, persons who have registered should come to the 23rd Street entrance. One of the following valid means of identification will be required for admittance: A U.S. driver's license with photo, a passport, or a U.S. Government ID.

For further information, contact Deborah Grout, ACIEP Secretariat, U.S. Department of State, Bureau of Economic and Business Affairs, Room 3526, Main State, Washington, DC 20520.

Dated: March 9, 2001.

Carol E. Thompson,

Executive Secretary, Advisory Committee on International Economic Policy, U.S. Department of State.

[FR Doc. 01–6459 Filed 3–12–01; 2:45 pm]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice No. 3587]

Proposed Convention Sponsored by Unidroit on International Equipment Finance and Draft Protocol on Space Equipment; Meeting Notice

Action: The Space Finance Study Group of the State Department's Advisory Committee on Private International Law will meet in Washington, D.C. on Thursday, March 29 from 10:00 a.m. to 4:00 p.m. The Study Group will review and comment on a draft protocol on space equipment which would amend provisions of a proposed UNIDROIT convention on international secured financing for high-value mobile equipment, with a particular focus on the space equipment industry and implications for the provision of space-based services.

Agenda: The meeting will cover the status and purposes of the proposed (UNIDROIT) Convention on international interests in mobile equipment; the application of asset-based financing to space equipment; the revised draft protocol on space equipment; the revised draft protocol on aircraft; the upcoming meeting on the space protocol and the relationship to the outer space treaty system at the Legal Subcommittee of the United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS); and related developments in the space industry.

The intersection with the Uniform Commercial Code in the United States and secured finance laws in other countries will be considered, as well as related developments on international secured financing at UNCITRAL (the United Nations Commission on International Trade Law) and the OAS (Organization of American States).

The relationship between the proposed Space Equipment Protocol and the outer space treaty system will be reviewed, with particular attention to provisions on control and liability. In addition, options for establishment of an international computer-based registry of financial interests as contemplated by the new treaty system, and its relationship, if any, to the existing registration of space objects at UNCOPUOS, will be examined.

Background: The United States is a member of UNIDROIT (The International Institute for the Unification of Private Law) and has been an active participant in negotiations on a proposed multilateral convention (UNIDROIT Convention) to provide for the creation and enforceability of international secured finance interests in mobile equipment, specifically including at this stage aircraft, to be followed by space and satellite equipment, and railway rolling stock. A Space Working Group (SWG) authorized by UNIDROIT has prepared the current draft protocol on provisions specific to space equipment financing. Completion of the basic Convention and Aircraft Protocol is expected by the fall of 2001. Completion of protocols on space and rail equipment is expected to follow. The proposed Convention and equipment specific protocols can enhance the development of equipment industries, as well as the capacity of many countries to finance such equipment and related services, through private sector capital markets.

Key features of the draft Convention include the creation of internationally enforceable financing interests; establishment of an international computer-based registry system for notice and priority of finance interests; and optional provisions on key issues such as certain expedited remedies, insolvency, etc. The convention and space protocol would not amend any provisions of the space treaty system, nor affect the existing object registry functions of UNCOPUOS.

Attendance: The meeting will be held at the International Law Institute (ILI) in Washington, DC, 1615 New Hampshire Avenue, NW., at 10:00 a.m. Thursday, March 29. The meeting is open to the public, subject to rulings of the Chair. Persons wishing to attend should contact Kenneth Hodgkins, Office of Space and Advanced Technology (OES/SAT), 202–663–2398, fax 663–2404, email k.hodgkins@state.gov, or Hal Burman, Office of Legal Adviser (L/PIL), at 202–776–8421, fax 776–8482, email pildb@his.com.

Documents: A revised draft space protocol, prepared by the UNIDROIT Space Working Group, a joint report by the Secretariats of UNCOPUOS and UNIDROIT, and the basic convention draft are available in UNCOPUOS Doc. AC.105/C.2/L.225, dated Jan.22, 2001. The basic convention and documents related to aircraft finance are available at www.UNIDROIT.org. Commentators can also obtain copies from the Office of Legal Adviser by contacting Rosie Gonzales at 202–776–8420, fax 776–8482, or by email at pildb@his.com. Persons unable to attend the meeting can provide comments at any of the above contact points.

Harold S. Burman,

Executive Director, Secretary of State's Advisory Committee on Private International Law, United States Department of State.

[FR Doc. 01–6460 Filed 3–12–01; 2:45 pm]

BILLING CODE 4710–08–P

TENNESSEE VALLEY AUTHORITY

Environmental Impact Statement for Addition of Electric Generation Baseload Capacity in Tennessee

AGENCY: Tennessee Valley Authority.

ACTION: Notice of intent.

SUMMARY: The Tennessee Valley Authority (TVA) will prepare an environmental impact statement (EIS) for the proposed construction and operation of a natural gas-fired generating plant in Tennessee. The plant would supply intermediate or baseload capacity to the TVA electric generation system to meet growing power demands. The EIS will evaluate the potential environmental impacts of constructing and operating a combined cycle combustion turbine plant. TVA is considering sites near its 500 kV Franklin substation, including at least one site on the U.S. Air Force's Arnold Engineering Development Center, near Tullahoma, Tennessee. TVA will use the EIS process to obtain public involvement on this proposal. Public comment is invited concerning both the scope of the EIS and environmental issues that should be addressed as a part of this EIS.

DATES: Comments on the scope and environmental issues for the EIS must be postmarked or e-mailed no later than April 16, 2001, to ensure consideration. Late comments will receive every consideration possible.

ADDRESSES: Written comments should be sent to Bruce L. Yeager, Senior Specialist, National Environmental Policy Act, Tennessee Valley Authority, mail stop WT 8C, 400 West Summit Hill Drive, Knoxville, Tennessee 37902–1499. Comments may be e-mailed to blyeager@tva.gov.

FOR FURTHER INFORMATION CONTACT: Roy V. Carter, P.E., EIS Project Manager, Environmental Research Center, Tennessee Valley Authority, mail stop CEB 4C, Muscle Shoals, Alabama 35662–1010. E-mail may be sent to rvcarter@tva.gov.

SUPPLEMENTARY INFORMATION:

Project Description

TVA proposes to construct and operate an electric power plant as early as June 2003. The proposed plant would be a combined cycle natural gas-fired combustion turbine plant for baseload or intermediate operation. Low sulfur fuel oil could be used as a backup fuel, depending on fuel pricing and availability. The generation capacity of a plant would be typically 510 megawatt (MW). Candidate sites were identified through a detailed screening process that considered: (1) TVA's transmission system capacity at the locale; (2) reliable and economical long-term supply of natural gas; (3) engineering suitability of the site; (4) compatibility with surrounding land use; and (5) environmental factors including wetlands, floodplains, water supply, water quality, air quality, and historic and archaeological resources.

A plant could consist of two combustion turbines such as the General Electric Model GE 7FA with a rated net power output of 170 MW each. Two heat recovery steam generators (HRSG) would be used to generate steam from the turbine exhaust gas waste heat. The HRSGs may also have direct firing of natural gas to supplement the exhaust heat content. The resulting steam flow is then passed through a steam turbine which operates a generator to produce an additional 170 MW.

The proposed sites would be located near both TVA power transmission lines (161 kilovolt (kV) or 500 kV) and adequate natural gas service to minimize the lengths, and therefore cost, of these interconnections. Additional ancillary equipment beyond that required for a peaking plant would include cooling towers that supply cooling water for steam condensers. These cooling towers require a source of water to make up for both evaporative losses and the blowdown necessary to maintain water quality in the cooling tower. As a result, there would be an intake pumping station constructed in a large stream to supply the water. In the case of AEDC sites, the water supply source is anticipated to be the Woods Reservoir. A water pipeline would be constructed to connect the water supply with the plant. The cooling tower blowdown is a heated wastewater with a high dissolved solids content requiring treatment and/or disposal. Typical practice would be to construct a pipeline to a receiving stream having the capacity to assimilate the wastewater. An alternative would be to treat the blowdown on-site and recycle the water as cooling tower makeup water. This option would require construction of an onsite treatment facility and disposal of resulting sludge. Additionally, a water treatment facility would be required to supply demineralized water for various plant uses.

A short natural gas pipeline lateral would be needed to connect the sites with gas supplies and 20 or so miles of existing high pressure gas line upstream of the tap point would be upgraded.

TVA's Integrated Resource Plan and the Need for Power

This EIS will tier from TVA's *Energy Vision 2020:* An Integrated Resource Plan and Final Programmatic Environmental Impact Statement. *Energy Vision 2020* was completed in December 1995 and a Record of Decision issued on February 28, 1996 (61 FR 7572). *Energy Vision 2020* analyzed a full range of supply-side and demand-side options to meet customer energy needs for the period 1995 to 2020. These options were ranked using several criteria including environmental performance. Favorable options were formulated into strategies. A group of options drawn from several effective strategies was chosen as TVA's preferred alternative. The supply-side options selected to meet peaking and baseload capacity needs through the 2005 period included: (1) Addition of simple cycle or combined cycle combustion turbines to TVA's generation system, (2) purchase of call options for peaking or baseload capacity, and (3) market purchases of peaking or baseload capacity. The short-term action plan of *Energy Vision 2020* identified a need for 3,000 MW of baseload and peaking additions through the year 2002. This is in addition to the baseload capacity additions of the successful completion of Watts Bar Nuclear Plant Unit 1 and the return to service of Browns Ferry Nuclear Plant Unit 3.

Each year TVA provides updated projections of supply and demand for the TVA sub-region of the Southeastern Electric Reliability Council (SERC) for the U.S. Department of Energy's annual report EIA–411. The 1999 report shows expected baseload demands growing at 2.2 percent from 1999 to 2003 and beyond. The net capacity resources needed to meet the growth in demand increases 2,000 megawatts by year 2001, and 3,400 megawatts by year 2003. (See line item 13 on Table—Item 2.1 Projected Capacity and Demand—Summer of the EIA–411 report.) The addition of the combustion turbines is needed by TVA to meet projected regional power demand for baseload capacity.

Since 1995 additional power needs have been met or will be met in the following ways: (1) Continuing modernization of existing TVA hydroelectric plants (both conventional and pumped storage) will add approximately 388 MW of peaking capacity through 2002; (2) the Red Hills Power Project, a 440 MW lignite coal fired plant will begin commercial baseload operation in 2001 (TVA Record of Decision, 63 FR 44944); (3) 680 MW of simple cycle combustion turbines were constructed at the TVA Johnsonville and Gallatin Fossil Plants and began operation during June and July 2000 (TVA Record of Decision, 64 FR 38932); (4) 680 MW of simple cycle combustion turbines are under construction at the Lagoon Creek Combustion Turbine Plant site in Haywood County, Tennessee, with commercial operation as early as June 2001 (TVA Record of Decision, 65 FR 30469); (5) 340 MW of simple cycle combustion turbines are planned for a site near DeKalb in Kemper County, Mississippi, with commercial operation expected by June or July 2002 (Notice for Draft EIS, 65 FR 78484, Record of Decision expected in May 2001); (6) various power purchase agreements in effect over this period; (7) demand side customer service programs continue to be implemented through TVA power distributors with an estimated 154 MW of capacity added from 1995 through 1999 and an additional 264 MW from 2000 through 2002; (8) operation of the 14 MW emergency diesel generators at the unfinished Bellefonte Nuclear Power Plant site; and (9) a Green Power Program that would begin in 2000 as a market test with several MW of capacity. Technologies for this program

may include landfill gas, photovoltaics, and wind.

Because *Energy Vision 2020* identified and evaluated alternative supply-side and demand-side energy resources and technologies for meeting peak and baseload capacity needs, this EIS will not reevaluate those alternatives. This EIS will focus on the site-specific impacts of constructing and operating combustion turbine combined cycle plants at candidate sites.

Proposed Issues To Be Addressed

The EIS will describe the existing environmental and socioeconomic resources at and in the vicinity of each candidate site that would be affected by construction and operation of a power plant. TVA's evaluation of environmental impacts to these resources will include, but not necessarily be limited to the potential impacts on air quality, water quality, aquatic and terrestrial ecology, endangered and threatened species, wetlands, aesthetics and visual resources, noise, land use, historic and archaeological resources, and socioeconomic resources.

Alternatives

The results of evaluating the potential environmental impacts and other important issues identified in the scoping process, as well as, engineering and economic considerations will be used by TVA in selecting a preferred alternative. At this time, the range of alternatives TVA is considering for detailed evaluation include no action and construction and operation of a combined cycle baseload plant at one of the candidate sites.

Scoping Process

Scoping, which is integral to the NEPA process, is a procedure that solicits public input to the EIS process to ensure that: (1) Issues are identified early and properly studied; (2) issues of little significance do not consume substantial time and effort; (3) the draft EIS is thorough and balanced; and (4) delays caused by an inadequate EIS are avoided. TVA's NEPA procedures require that the scoping process commence soon after a decision has been reached to prepare an EIS in order to provide an early and open process for determining the scope and for identifying the significant issues related to a proposed action. The scope of alternatives and issues to be addressed in the draft EIS will be determined, in part, from written comments submitted by mail or e-mail, and comments presented orally or in writing at public meetings. The preliminary identification in this notice of reasonable alternatives and environmental issues is not meant to be exhaustive or final.

The scoping process will include both interagency and public scoping. The public is invited to submit written comments or e-mail comments on the scope of this EIS no later than the date given under the **DATES** section of this notice.

TVA conducted a public scoping meeting near the proposed sites. The meeting was held at the University of Tennessee Space Institute main auditorium near Tullahoma, Tennessee, on March 8, 2001. At the meeting, TVA management and project staff presented overviews of the EIS process and the proposed power plant project, answered questions and solicited comments on the issues that the public would like addressed in the EIS. These meetings were publicized through notices in local newspapers, by TVA press releases, and in meetings between TVA officials and local elected officials preceding the public meetings.

The agencies to be included in the interagency scoping are U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, Tennessee Department of Environment and Conservation, the Tennessee State Historic Preservation Officer, the U.S. Air Force and other federal, state, and local agencies, as appropriate.

After consideration of the scoping comments, TVA will further develop alternatives and environmental issues to be addressed in the EIS. Following analysis of the environmental consequences of each alternative, TVA will prepare a draft EIS for public review and comment. Notice of availability of the draft EIS will be published by the Environmental Protection Agency in the **Federal Register**. TVA will solicit written comments on the draft EIS, and information about possible public meetings to comment on the draft EIS will be announced. TVA expects to release a draft EIS by June 2001 and a final EIS by September 2001.

Dated: March 8, 2001.

Kathryn J. Jackson,

Executive Vice President, River System Operations & Environment.

[FR Doc. 01–6333 Filed 3–13–01; 8:45 am]

BILLING CODE 8120–08–U

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Services (ISAC–13)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of Meeting.

SUMMARY: The Industry Sector Advisory Committee on Services (ISAC–13) will hold a meeting on March 20, 2001, from 9:00 a.m. to 12:00 noon. The meeting will be opened to the public from 9:00 a.m. to 9:45 a.m. and closed to the public from 9:45 a.m. to 12:00 noon.

DATES: The meeting is scheduled for March 19, 2001, unless otherwise notified.

ADDRESSES: The meeting will be held at the Department of Commerce, Conference Room 6057, located at 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karen Holderman, (202) 482–4792, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230 (principal contact), or myself on (202) 395–6120.

SUPPLEMENTARY INFORMATION: During the opened portion of the meeting the following topics will be covered:

- Services Statistics;
- Overview of WTO General Agreement on Trade in Services (GATS) Negotiations

Christina Sevilla,

Acting Assistant United States Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 01–6348 Filed 3–13–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q during the Week Ending March 2, 2001

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following

the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–1996–2008.
Date Filed: February 27, 2001.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 20, 2001.
Description: Amendment of China Southern Airlines Company, Limited to its Application requesting a Foreign Air Carrier Permit pursuant to 49 U.S.C. 41301 and subpart B of the Departments regulations, revising the original description of authority sought to include authority to operate from Shenzhen and Guangzhou and to Los Angeles, Anchorage and Chicago, as follows: authority to conduct foreign air transportation of persons, property and mail between Guangzhou, China and Los Angeles; and of property and mail between Shenzhen, China and Anchorage and Chicago.

Docket Number: OST–2001–9027.
Date Filed: February 28, 2001.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 21, 2001.
Description: Joint Application of American Airlines, Inc., TWA Airlines LLC, and Trans World Airlines, Inc. pursuant to 49 U.S.C. 41105 and subpart B, applies for the transfer of TWA's certificates of public convenience and necessity and other route authorities, identified in Exhibit 1, to American and TWA Airlines LLC, and under 49 U.S.C. Section 41109 for associated exemptions. The joint applicants are requesting that the answer period be shortened to March 14, 2001.

Docket Number: OST–2001–8910.
Date Filed: March 2, 2001.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 14, 2001.
Description: Application of American Airlines, Inc. pursuant to 49 U.S.C. 41102, subpart B, and in response to the Department's Notice, applies for a certificate of public convenience and necessity to engage in scheduled foreign air transportation of persons, property, and mail between Miami, Florida and Medellin, Colombia, and the allocation of seven weekly frequencies. American also requests route integration with its other certificates and exemptions to conduct foreign air transportation.

Docket Number: OST–2001–8910.
Date Filed: March 2, 2001.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 14, 2001.
Description: Application of Continental Airlines, Inc. pursuant to 49 U.S.C. 41108, 41102, subpart B, and in response to the Department's Notice, applies for a certificate of public convenience and necessity authorizing Continental to provide scheduled foreign air transportation of persons, property and mail between New York/Newark, New Jersey, and Cali and Medellin, Colombia, and for an allocation of seven U.S. Colombia frequencies.

Dorothy Y. Beard,
Federal Register Liaison.
[FR Doc. 01–6356 Filed 3–13–01; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements filed during the week ending March 2, 2001

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2001–9008.
Date Filed: February 28, 2001.
Parties: Members of the International Air Transport Association.
Subject: PTC12 MEX–EUR 0037 dated 20 February 2001; TC12 North Atlantic Mexico-Europe Expedited Resolution 002g; Intended effective date: 1 April 2001.

Docket Number: OST–2001–9028.
Date Filed: February 28, 2001.
Parties: Members of the International Air Transport Association.
Subject: PTC2 AFR 0100 dated 27 February 2001; TC2 Within Africa Expedited Resolution 002k; Intended effective date: 1 April 2001.

Docket Number: OST–2001–9035.
Date Filed: March 1, 2001.
Parties: Members of the International Air Transport Association.
Subject: PTC12 MEX–EUR 0039 dated 27 February 2001; TC12 North Atlantic Mexico-Europe Resolutions r1–r20; Minutes—PTC12 MEX–EUR 0038 dated 23 February 2001; Tables—PTC12 MEX–EUR Fares 0016 dated 27 February 2001; Intended effective date: 1 May 2001.

Dorothy Y. Beard,
Federal Register Liaison.
[FR Doc. 01–6357 Filed 3–13–01; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Orange and San Diego Counties, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Supplemental notice of intent.

SUMMARY: The FHWA originally published a Notice of Intent for the transportation project described below in the **Federal Register** on December 16, 1993 (58 FR 65758). Public scoping meetings on the project were held on August 25, 1994 and September 16, 1994. A revised Notice of Intent was published in the **Federal Register** on February 20, 2001 (66 FR 10934). The FHWA is issuing this supplemental Notice of Intent to advise the public of the dates, times, and locations of the scoping meetings that will be held to consider the project, which is located in southern Orange County and northern San Diego County, California.

FOR FURTHER INFORMATION CONTACT: Robert L. Cady, Transportation Engineer, Federal Highway Administration, California Division, 980 Ninth Street, Suite 400, Sacramento, California 95814–2724. Telephone: (916) 498–5038.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the California Department of Transportation (Caltrans) will prepare an Environmental Impact Statement (EIS), on a proposal to locate and construct transportation infrastructure improvements in southern Orange County and northern San Diego County. The Transportation Corridor Agencies (TCA) is currently preparing a Subsequent Environmental Impact Report (SEIR) to comply with the review requirements of the California Environmental Quality Act. In an effort to eliminate unnecessary duplication and reduce delay, the document to be prepared will be a joint EIS/SEIR in accordance with the President's Council on Environmental Quality Regulations as described in Title 40 Code of Federal Regulations (CFR), Sections 1500.5 and 1506.2.

The purpose of the proposed project is provide improvements to the transportation infrastructure system that would help alleviate future traffic congestion and accommodate the need for mobility, access, goods movement, and future traffic demands on the interstate Route 5 (I–5) freeway and the arterial network in the southern Orange County area.

Alternatives under consideration include (1, 2, and 3) three southerly toll road extension alignments, including several variations thereof, from the existing terminus of the Foothill Transportation Corridor–North, State Route 241 (SR–241), at Oso Parkway, to the I–5 freeway near the Orange County/San Diego County line; (4) improvements to the local arterial system; (5) lane additions on I–5 in each direction between the I–5/I–405 confluence to Cristianitos Road; and (6) no action.

Note: As required by the National Environmental Policy Act (NEPA), all other reasonable alternatives will be considered. These alternatives may be refined, combined with various different alternative elements, or be removed from further consideration, as more analysis is conducted on the project alternative.

In November of 1985, Orange County began consultation with State and local agencies for the southern segment of SR–241, identified as beginning just south of the Oso Parkway interchange and extending southerly to a connection with the I–5 freeway. The TCA has continued these consultations and held a scoping meeting for state and federal agencies regarding the proposed route. These consultations identified areas of special concern along the proposed route, including new highway and arterial roadway improvements and updates to portions of the baseline information, which were the focus of locally initiated EIR studies. FHWA believes that this early and continued consultation has been extensive and consistent with 40 CFR 1501.7. However, in order to inform potentially affected agencies and the general public of FHWA involvement, and to gather further comments regarding the new alternatives for study, three public scoping meetings will be held as follows:

- Monday, March 26, 2001, from 6:30 p.m. to 9:30 p.m. (presentation starts at 7:30 p.m.) at the Christian Heritage Church, 190 Avenida La Pata, San Clemente, California.
- Tuesday, March 27, 2001, from 7:00 p.m.—10:00 p.m. (presentation starts at 8:00 p.m.) at the Trabuco Mesa Elementary School, 21301 Avenida Del Los Flores, Rancho Santa Margarita, California.
- Thursday, March 29, 2001, from 6:30 p.m. to 9:30 p.m. (presentation starts at 7:30 p.m.) at Mission San Luis Rey, 4070 Mission Avenue, Oceanside, California.

To ensure that the full range of issues related to the proposed routes are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal 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.)

Issued on: March 5, 2001.

Jeffrey W. Kolb,

Team Leader, Program Delivery Team-South, Sacramento, California.

[FR Doc. 01–6334 Filed 3–13–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–01–8906; Notice 01]

RIN 2127–AI06

Preliminary Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Publication of preliminary theft data; request for comments.

SUMMARY: This document requests comments on data about passenger motor vehicle thefts that occurred in calendar year (CY) 1999, including theft rates for existing passenger motor vehicle lines manufactured in model year (MY) 1999. The theft data preliminarily indicate that the vehicle theft rate for CY/MY 1999 vehicles (2.89 thefts per thousand vehicles) increased by 14.2 percent from the theft rate for CY/MY 1998 vehicles (2.53 thefts per thousand vehicles).

Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data, and publish the information for review and comment.

DATES: Comments must be submitted on or before May 14, 2001.

ADDRESSES: All comments should refer to the docket number and notice number cited in the heading of this document and be submitted, preferably with two copies to: U.S. Department of Transportation, Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are from 10:00 am to 5:00 pm, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR Part 541. The standard specifies performance requirements for inscribing or affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data, and publish the data for review and comment. To fulfill the § 33104(b)(4) mandate, this document reports the preliminary theft data for CY 1999, the most recent calendar year for which data are available.

In calculating the 1999 theft rates, NHTSA followed the same procedures it used in calculating the MY 1998 theft rates. (For 1998 theft data calculations, see 65 FR 40721, June 30, 2000). As in all previous reports, NHTSA's data were based on information provided to the agency by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a governmental system that receives vehicle theft information from nearly 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources.

The 1999 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 1999 vehicles of that line stolen during calendar year 1999, by the total number of vehicles in that line manufactured for MY 1999, as reported by manufacturers to the Environmental Protection Agency.

The preliminary 1999 theft data show an increase in the vehicle theft rate when compared to the theft rate experienced in CY/MY 1998. The preliminary theft rate for MY 1999 passenger vehicles stolen in calendar year 1999 increased to 2.89 thefts per thousand vehicles produced, an increase of 14.2 percent from the rate of 2.53 thefts per thousand vehicles experienced by MY 1998 vehicles in CY 1998. For MY 1999 vehicles, out of a total of 201 vehicle lines, 54 lines had a theft rate higher than 3.5826 per

thousand vehicles, the established median theft rate for MYs 1990/1991. (See 59 FR 12400, March 16, 1994). Of the 54 vehicle lines with a theft rate higher than 3.5826, 50 are passenger car lines, four are multipurpose passenger vehicle lines, and none are light-duty truck lines.

In Table I, NHTSA has tentatively ranked each of the MY 1999 vehicle lines in descending order of theft rate. Public comment is sought on the accuracy of the data, including the data for the production volumes of individual vehicle lines.

Comments must not exceed 15 pages in length (49 CFR Part 553.21). Attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and two copies from which the purportedly confidential information has been deleted should be submitted to Dockets. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for this document will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments on this document will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available for inspection in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 49 U.S.C. 33101, 33102 and 33104; delegation of authority at 49 CFR 1.50.

PRELIMINARY REPORT OF THEFT RATES OF 1999 MODEL YEAR PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1999

No.	Manufacturer	Make/model (line)	Thefts 1999	Production (Mfr's) 1999	1999 theft rate (per 1,000 vehicles produced)
1	HONDA	ACURA INTEGRA	496	25,790	19.2323
2	DAIMLERCHRYSLER	INTREPID [1]	9	480	18.7500
3	MITSUBISHI	MIRAGE	564	53,884	10.4669
4	DAIMLERCHRYSLER	PLYMOUTH NEON	350	38,944	8.9873
5	DAIMLERCHRYSLER	NEON [1]	2	226	8.8496
6	MITSUBISHI	MONTERO SPORT/NATIVA [2]	368	42,268	8.7063
7	DAIMLERCHRYSLER	DODGE STRATUS	715	84,128	8.4990
8	DAIMLERCHRYSLER	DODGE INTREPID	1,104	139,847	7.8943
9	DAIMLERCHRYSLER	DODGE NEON	448	56,850	7.8804
10	BMW	Z3	18	2,547	7.0671
11	MITSUBISHI	ECLIPSE	349	50,070	6.9702
12	DAIMLERCHRYSLER	SEBRING CONVERTIBLE	319	46,758	6.8224
13	GENERAL MOTORS	OLDSMOBILE ALERO	799	121,343	6.5846
14	DAIMLERCHRYSLER	PLYMOUTH BREEZE	367	56,048	6.5480
15	MITSUBISHI	DIAMANTE	54	8,347	6.4694
16	MITSUBISHI	GALANT	390	62,488	6.2412
17	DAIMLERCHRYSLER	STRATUS [1]	3	482	6.2241
18	BMW	M3	41	7,415	5.5293
19	KIA MOTORS	SEPHIA	315	57,099	5.5167
20	DAEWOO	LEGANZA	74	14,217	5.2050
21	GENERAL MOTORS	PONTIAC SUNFIRE	383	74,944	5.1105
22	NISSAN	SENTRA/200SX	399	79,115	5.0433
23	GENERAL MOTORS	PONTIAC GRAND AM	1,510	299,775	5.0371
24	TOYOTA	TERCEL	59	12,122	4.8672
25	SUZUKI	ESTEEM	69	14,255	4.8404
26	MERCEDES BENZ	140 (CL–CLASS & S–CLASS)	63	13,532	4.6556
27	FORD MOTOR CO	MUSTANG	579	125,973	4.5962
28	FORD MOTOR CO	MERCURY TRACER	117	25,972	4.5049
29	GENERAL MOTORS	PONTIAC BONNEVILLE	231	53,371	4.3282
30	GENERAL MOTORS	OLDSMOBILE CUTLASS	186	43,584	4.2676
31	NISSAN	ALTIMA	739	174,349	4.2386
32	FORD MOTOR CO	LINCOLN TOWN CAR	379	89,564	4.2316
33	GENERAL MOTORS	CHEVROLET CAVALIER	986	233,756	4.2181
34	DAIMLER CHRYSLER	CIRRUS	138	32,903	4.1941
35	MITSUBISHI	MONTERO	31	7,399	4.1898
36	GENERAL MOTORS	OLDSMOBILE INTRIGUE	359	86,481	4.1512
37	DAIMLERCHRYSLER	LHS	149	36,369	4.0969
38	HONDA	PRELUDE	46	11,366	4.0472
39	JAGUAR	XJ8	29	7,235	4.0083
40	DAIMLERCHRYSLER	JEEP CHEROKEE	610	154,377	3.9514
41	GENERAL MOTORS	BUICK REGAL	286	73,309	3.9013
42	NISSAN	INFINITI Q45	28	7,208	3.8846

PRELIMINARY REPORT OF THEFT RATES OF 1999 MODEL YEAR PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1999—Continued

No.	Manufacturer	Make/model (line)	Thefts 1999	Production (Mfr's) 1999	1999 theft rate (per 1,000 vehicles produced)
43	HONDA	CIVIC	1,039	269,109	3.8609
44	GENERAL MOTORS	CADILLAC DEVILLE	411	106,554	3.8572
45	GENERAL MOTORS	CHEVROLET MALIBU	822	213,692	3.8467
46	GENERAL MOTORS	CHEVROLET BLAZER S10/T10	762	199,042	3.8283
47	TOYOTA	LEXUS GS	116	30,513	3.8017
48	FORD MOTOR CO	CONTOUR	524	139,339	3.7606
49	DAEWOO	LANOS	31	8,312	3.7295
50	MITSUBISHI	3000GT	12	3,244	3.6991
51	GENERAL MOTORS	CHEVROLET METRO	95	25,749	3.6895
52	TOYOTA	COROLLA	940	255,693	3.6763
53	MERCEDES BENZ	208 (CLK–CLASS)	65	17,795	3.6527
54	DAIMLERCHRYSLER	DODGE AVENGER	61	16,883	3.6131
55	KIA MOTORS	SPORTAGE	135	38,232	3.5311
56	SUZUKI	VITARA/GRAND VITARA	124	35,651	3.4782
57	DAEWOO	NUBIRA	33	9,553	3.4544
58	GENERAL MOTORS	PONTIAC FIREBIRD/TRANS AM/FORMULA	119	35,115	3.3889
59	HYUNDAI	SONATA	82	24,539	3.3416
60	FORD MOTOR CO	MERCURY MYSTIQUE	134	40,939	3.2732
61	FORD MOTOR CO	ESCORT	933	287,150	3.2492
62	HYUNDAI	TIBURON	23	7,215	3.1878
63	ISUZU	RODEO	230	72,544	3.1705
64	HYUNDAI	ACCENT	120	37,950	3.1621
65	GENERAL MOTORS	CHEVROLET CAMARO	123	39,041	3.1505
66	GENERAL MOTORS	PONTIAC GRAND PRIX	437	142,546	3.0657
67	GENERAL MOTORS	CHEVROLET CORVETTE	90	29,904	3.0096
68	JAGUAR	XK8	17	5,747	2.9581
69	NISSAN	PATHFINDER	181	61,310	2.9522
70	DAIMLERCHRYSLER	SEBRING COUPE	81	27,519	2.9434
71	MAZDA	PROTÉGÉ	208	70,802	2.9378
72	MERCEDES BENZ	129 (SL-CLASS)	28	9,633	2.9067
73	ROLLS-ROYCE	BENTLEY ARNAGE	1	348	2.8736
74	GENERAL MOTORS	CHEVROLET LUMINA/MONTE CARLO	561	197,430	2.8415
75	FORD MOTOR CO	EXPLORER	1,099	386,943	2.8402
76	MAZDA	626	244	88,473	2.7579
77	FORD MOTOR CO	TAURUS	1,163	423,308	2.7474
78	BMW	7	23	8,391	2.7410
79	DAIMLERCHRYSLER	CONCORDE	175	64,234	2.7244
80	GENERAL MOTORS	CHEVROLET PRIZM	136	49,999	2.7201
81	DAIMLERCHRYSLER	300M	206	76,130	2.7059
82	HYUNDAI	ELANTRA	158	60,317	2.6195
83	DAIMLERCHRYSLER	JEEP GRAND CHEROKEE	729	284,429	2.5630
84	DAIMLERCHRYSLER	PLYMOUTH VOYAGER/GRAND	377	150,111	2.5115
85	NISSAN	INFINITI QX4	59	23,505	2.5101
86	SUZUKI	SWIFT	5	1,998	2.5025
87	NISSAN	MAXIMA	239	95,789	2.4951
88	TOYOTA	TACOMA PICKUP TRUCK	412	167,637	2.4577
89	FORD MOTOR CO	MERCURY SABLE	295	120,113	2.4560
90	MAZDA	MILLENIA	47	19,249	2.4417
91	GENERAL MOTORS	CADILLAC SEVILLE	86	35,624	2.4141
92	FORD MOTOR CO	MERCURY COUGAR	212	88,258	2.4020
93	FORD MOTOR CO	MERCURY MOUNTAINEER	105	43,743	2.4004
94	HONDA	ACURA RL	31	12,961	2.3918
95	VOLVO	C70	12	5,087	2.3590
96	DAIMLERCHRYSLER	JEEP WRANGLER	197	84,990	2 3179
97	TOYOTA	4–RUNNER	292	126,929	2.3005
98	HONDA	ACURA SLX	2	870	2.2989
99	NISSAN	FRONTIER PICKUP TRUCK	104	45,256	2.2980
100	GENERAL MOTORS	OLDSMOBILE BRAVADA	57	25,782	2.2108
101	GENERAL MOTORS	BUICK CENTURY	329	150,061	2.1924
102	GENERAL MOTORS	CADILLAC ELDORADO	35	15,982	2.1900
103	GENERAL MOTORS	GMC JIMMY S–15	137	63,541	2.1561
104	TOYOTA	CAMRY/CAMRY SOLARA	1,040	490,959	2.1183
105	DAIMLERCHRYSLER	DODGE CARAVAN/GRAND	595	297,350	2.0010
106	ISUZU	TROOPER	46	23,094	1.9919
107	VOLKSWAGEN	GOLF/GTI	28	14,204	1.9713
108	FORD MOTOR CO	RANGER PICKUP TRUCK	692	356,716	1.9399
109	ISUZU	HOMBRE PICKUP TRUCK	5	2,595	1.9268

PRELIMINARY REPORT OF THEFT RATES OF 1999 MODEL YEAR PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1999—Continued

No.	Manufacturer	Make/model (line)	Thefts 1999	Production (Mfr's) 1999	1999 theft rate (per 1,000 vehicles produced)
110	GENERAL MOTORS	CHEVROLET ASTRO VAN	146	76,071	1.9193
111	VOLKSWAGEN	CABRIO	15	8,153	1.8398
112	TOYOTA	RAV4	109	60,776	1.7935
113	TOYOTA	LEXUS SC	5	2,822	1.7718
114	MERCEDES BENZ	163 (ML–CLASS)	91	51,970	1.7510
115	MERCEDES BENZ	210 (E–CLASS)	97	55,719	1.7409
116	VOLKSWAGEN	JETTA	191	109,769	1.7400
117	DAIMLERCHRYSLER	DODGE DAKOTA PICKUP TRUCK	233	134,058	1.7381
118	BMW	3	97	56,197	1.7261
119	BMW	5	52	30,490	1.7055
120	HONDA	ACCORD	607	356,993	1.7003
121	PONTIAC	MONTANA VAN	97	58,081	1.6701
122	NISSAN	INFINITI G20	38	22,842	1.6636
123	GENERAL MOTORS	CHEVROLET S–10 PICKUP TRUCK	296	179,498	1.6490
124	TOYOTA	CELICA	8	4,868	1.6434
125	GENERAL MOTORS	SATURN SL	311	190,414	1.6333
126	MERCEDES BENZ	170 (SLK–CLASS)	22	13,875	1.5856
127	FORD MOTOR CO	F–150 PICKUP TRUCK	276	174,285	1.5836
128	GENERAL MOTORS	OLDSMOBILE 88/REGENCY	61	39,921	1.5280
129	GENERAL MOTORS	GMC SONOMA PICKUP TRUCK	66	43,355	1.5223
130	SAAB	9–5	37	24,666	1.5000
131	VOLVO	S80	37	24,976	1.4814
132	FERRARI	F355	1	694	1.4409
133	GENERAL MOTORS	GMC SAFARI VAN	34	23,613	1.4399
134	TOYOTA	AVALON	89	61,819	1.4397
135	MAZDA	B SERIES PICKUP TRUCK	62	44,452	1.3948
136	FORD MOTOR CO	LINCOLN CONTINENTAL	37	27,054	1.3676
137	DAIMLERCHRYSLER	TOWN & COUNTRY MPV	104	76,795	1.3543
138	VOLVO	S70/V70	80	59,367	1.3475
139	SAAB	9–3	46	34,580	1.3302
140	HONDA	PASSPORT	36	27,499	1.3091
141	GENERAL MOTORS	BUICK PARK AVENUE	78	59,904	1.3021
142	TOYOTA	LEXUS RX	118	91,102	1.2953
143	TOYOTA	LEXUS ES	58	46,162	1.2564
144	NISSAN	QUEST	50	40,506	1.2344
145	GENERAL MOTORS	OLDSMOBILE AURORA	23	18,729	1.2280
146	GENERAL MOTORS	CADILLAC LIMOUSINE	1	821	1.2180
147	FORD MOTOR CO	MERCURY GRAND MARQUIS	146	122,586	1.1910
148	GENERAL MOTORS	CHEVROLET TRACKER	41	34,839	1.1768
149	GENERAL MOTORS	BUICK LESABRE	117	100,354	1.1659
150	GENERAL MOTORS	CADILLAC CATERA	16	13,801	1.1593
151	NISSAN	INFINITI I30	28	24,215	1.1563
152	FORD MOTOR CO	MERCURY VILLAGER MPV	59	51,066	1.1554
153	FORD MOTOR CO	WINDSTAR VAN	233	203,936	1.1425
154	GENERAL MOTORS	SATURN SC	54	47,578	1.1350
155	AUDI	A6	28	24,809	1.1286
156	MAZDA	MX–5 MIATA	38	33,723	1.1268
157	BMW	M	3	2,731	1.0985
158	HONDA	ACURA CL	27	24,960	1.0817
159	GENERAL MOTORS	CHEVROLET VENTURE VAN	93	88,071	1.0560
160	ISUZU	VEHICROSS	2	2,005	0.9975
161	DAIMLERCHRYSLER	DODGE VIPER	1	1,033	0.9681
162	GENERAL MOTORS	BUICK RIVIERA	2	2,091	0.9565
163	VOLKSWAGEN	PASSAT	75	79,396	0.9446
164	TOYOTA	LEXUS LS	16	17,291	0.9253
165	VOLKSWAGEN	NEW BEETLE	60	66,867	0.8973
166	AUDI	A8	2	2,244	0.8913
167	FORD MOTOR CO	CROWN VICTORIA	104	118,849	0.8751
168	SUBARU	LEGACY	78	90,840	0.8587
169	PORSCHE	911	11	12,887	0.8536
170	SUBARU	IMPREZA	17	20,208	0.8413
171	AUDI	A4	26	31,892	0.8153
172	HONDA	ACURA TL	45	55,646	0.8087
173	VOLKSWAGEN	EUROVAN	2	2,555	0.7828
174	MERCEDES BENZ	202 (C-CLASS)	28	37,472	0.7472
175	ISUZU	AMIGO	8	11,359	0.7043
176	SUBARU	FORESTER	32	46,668	0.6857

PRELIMINARY REPORT OF THEFT RATES OF 1999 MODEL YEAR PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1999—Continued

No.	Manufacturer	Make/model (line)	Thefts 1999	Production (Mfr's) 1999	1999 theft rate (per 1,000 vehicles produced)
177	JAGUAR	VANDEN PLAS	3	4,435	0.6764
178	HONDA	CR–V	72	110,945	0.6490
179	TOYOTA	SIENNA VAN	43	69,531	0.6184
180	GENERAL MOTORS	SATURN SW	10	16,420	0.6090
181	JAGUAR	XJR	1	1,778	0.5624
182	PORSCHE	BOXSTER CONVERTIBLE	7	13,234	0.5289
183	GENERAL MOTORS	OLDSMOBILE SILHOUETTE VAN	20	38,130	0.5245
184	HONDA	ODYSSEY VAN	6	50,425	0.1190
185	DAIMLERCHRYSLER	PLYMOUTH PROWLER	0	3,655	0.0000
186	FERRARI	360	0	445	0.0000
187	FERRARI	456	0	119	0.0000
188	FERRARI	550	0	259	0.0000
189	GENERAL MOTORS	BUICK FUNERAL COACH	0	993	0.0000
190	HONDA	ACURA NSX	0	243	0.0000
191	ISUZU	OASIS VAN	0	702	0.0000
192	LAMBORGHINI	DB132/DIABLO	0	162	0.0000
193	LOTUS	ESPRIT	0	121	0.0000
194	ROLLS-ROYCE	BENTLEY AZURE	0	70	0.0000
195	ROLLS-ROYCE	BENTLEY CONTINENTAL R	0	6	0.0000
196	ROLLS-ROYCE	BENTLEY CONTINENTAL SC	0	23	0.0000
197	ROLLS-ROYCE	BENTLEY CONTINENTAL T	0	5	0.0000
198	ROLLS-ROYCE	BENTLEY TURBO R	0	2	0.0000
199	ROLLS-ROYCE	SILVER SERAPH	0	299	0.0000
200	ROLLS-ROYCE	SILVER SPUR	0	2	0.0000
201	ROLLS-ROYCE	SILVER SPUR PARK WARD	0	51	0.0000

[1] These vehicles were manufactured for sale in the U.S. territories under the Chrysler name plate.
[2] Nativa is the name applied to Montero Sport vehicles that are manufactured for sale only in Puerto Rico.

Issued on: March 7, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–6217 Filed 3–13–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 159X)] and [STB Docket No. AB–364 (Sub-No. 5X)]

Union Pacific Railroad Company—Abandonment Exemption—in Bowie County, TX; Texas and Northeastern Railroad, a Division of Mid-Michigan Railroad, Inc.—Discontinuance of Service Exemption—in Bowie County, TX

Union Pacific Railroad Company (UP) and Texas and Northeastern Railroad, a Division of Mid-Michigan Railroad, Inc. (TNER), have filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* for UP to abandon and TNER to discontinue service over a 1.2-mile line of railroad between milepost 21.80 and milepost 23.0 in the city of New Boston, Bowie County, TX. The line traverses United States Postal Service Zip Code 75570.

UP and TNER have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on TNER's line for the past 2 years; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*. 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on April 13, 2001, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by March 26, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 3, 2001, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representatives: James P. Gatlin, General Attorney, Union Pacific Railroad Company, 1416 Dodge Street, Room

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $100. *See* 49 CFR 1002.2(f)(25).

830, Omaha, NE 68179; and Gary Laakso, Texas and Northeastern Railroad,Vice President, Regulatory Matters, 5300 Broken Sound Blvd., NW., 2nd Floor, Boca Raton, FL 33487–3509.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

UP and TNER have filed an environmental report which addresses the effects of the abandonment and discontinuance, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by March 19, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by March 14, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Dated: March 5, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–5911 Filed 3–13–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Submission for OMB review; comment request.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection that has been extended, revised, or implemented unless it displays a currently valid Office of Management and Budget (OMB) control number. Currently, the OCC is soliciting comments concerning an extension, without change, of an information collection titled (MA)—Real Estate Lending and Appraisals—12 CFR 34." The OCC also gives notice that it has sent the information collection to OMB for review.

DATES: You should submit your comments to both OCC and the OMB Desk Officer by April 13, 2001.

ADDRESSES: You are invited to submit comments to the Office of the Comptroller of the Currency, 250 E Street, SW., Public Information Room, Mailstop 1–5, Attention: 1557–0190, Washington, DC 20219. In addition, you can send comments by facsimile transmission to (202) 874–5274, or by electronic mail to *regs.comments@occ.treas.gov.*

A copy of the comments may also be submitted to the OMB Desk Officer, Alexander T. Hunt, Office of Management and Budget, New Executive Office Building, Room 3208, Attention: 1557–0190, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: You may request additional information or a copy of the collection and supporting documentation submitted to OMB by contacting Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: (MA)—Real Estate Lending and Appraisals—12 CFR 34.

OMB Number: 1557–0190.

Form Number: None.

Description: This submission covers an existing regulation and involves no change to the regulation or to the information collections embodied in the regulation. The OCC requests only that OMB renew its approval of the information collections in the current regulation.

The collections of information contained in 12 CFR part 34 are as follows:

Subpart C establishes real estate appraisal requirements that a national bank must follow for all federally-related real estate transactions. These requirements provide protections for the bank, further public policy interests, and were issued pursuant to title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 *et seq.*).

Subpart D requires that a national bank adopt and maintain written policies for real estate related lending transactions. These requirements ensure bank safety and soundness and were issued pursuant to section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828(o)).

Subpart E requires that a national bank file an application to extend the five-year holding period for Other Real Estate Owned (OREO) and file notice when it makes certain expenditures for OREO development or improvement projects. These requirements further bank safety and soundness and were issued pursuant to 12 U.S.C. 29.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 2,400.

Estimated Total Annual Responses: 900.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 132,900 burden hours.

Comments: The Agencies have a continuing interest in the public's opinion regarding collections of information. Members of the public may submit comments regarding any aspect of these collections of information.

Dated: March 7, 2001

Mark J. Tenhundfeld,

Assistant Director, Legislative & Regulatory Activities Division.

[FR Doc. 01–6246 Filed 3–13–01; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–22]

Customs Broker License Cancellations

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

I, as Assistant Commissioner, Office of Field Operations, pursuant to section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), and the Customs Regulations (19 CFR 111), hereby cancel the following customs

broker's licenses based on the authority as annotated:

Name	Port	License No.	Authority
DMD International, Inc	Chicago	17168	19 CFR 111.51(a)
David K. Lindemuth & Co	San Francisco	06598	19 CFR 111.51(a)

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–6336 Filed 3–13–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–23]

Customs Broker License Revocations

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

I, as Assistant Commissioner, Office of Field Operations, pursuant to section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), and the Customs Regulations (19 CFR 111), hereby revoke the following customs broker's licenses based on the authority as annotated:

Name	Port	License No.	Authority
Gilbert International, Inc	New York	14888	19 CFR 111.45(a)
Flandorffer Associates, Inc	New York	10351	19 CFR 111.45(a)
Jagro California, Inc	Los Angeles	13937	19 CFR 111.45(a)

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–6335 Filed 3–13–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group; Notice of Meeting

As required by the Federal Advisory Committee Act, the VA hereby gives notice that the Special Medical Advisory Group has scheduled a meeting on April 11, 2001. The meeting will convene at 9:00 a.m. and end at 2:00 p.m. The meeting will be held in Room 830 at VA Central Office, 810 Vermont Avenue, NW., Washington, DC. The purpose of the meeting is to advise the Secretary and Under Secretary for Health relative to the care and treatment of disabled veterans, and other matters pertinent to the Department's Veterans Health Administration (VHA).

The agenda for the meeting will include a presentation of current issues and future direction for VHA; Capital Asset Realignment for Enhanced Services update; Annual Ethics Briefing; Service Line Experience in Veterans Integrated Service Network 13; and VA Role in Graduate Medical Education.

All sessions will be open to the public. Those wishing to attend should contact Celestine Brockington, Office of the Under Secretary for Health, Department of Veterans Affairs. Her phone number is 202.273.5878.

Dated: March 5, 2001.

By Direction of the Secretary.

Ventris C. Gibson,

Committee Management Officer

[FR Doc. 01–6242 Filed 3–13–01; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 66, No. 50
Wednesday, March 14, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–820, A–428–830, A–475–829, A–580–847, A–583–836, A–412–822]

Notice of Initiation of Antidumping Duty Investigations: Stainless Steel Bar From France, Germany, Italy, Korea, Taiwan and the United Kingdom

Correction

In notice document 01–2057 beginning on page 7620 in the issue of Wednesday, January 24, 2001, make the following correction:

On page 7626, in the second column, the date "January 7, 2001" should read "January 17, 2001".

[FR Doc. C1–2057 Filed 3–13–01; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

Correction

In notice document 01–5652 beginning on page 13917 in the issue of Thursday, March 8, 2001, make the following correction:

On page 13917 in the first column, in the **DATES** section, "March 7, 2001 " should read "May 7, 2001 "

[FR Doc. C1–5652 Filed 3–13–01; 8:45 am]
BILLING CODE 1505–01–D

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–285]

Omaha Public Power District; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

Correction

In notice document 01–5409 beginning on page 13355 in the issue of Monday, March 5, 2001, make the following correction:

On page 13356, in the third column, in the second full paragraph, the date "April 5, 2001" should read "April 4, 2001".

[FR Doc. C1–5409 Filed 3–13–01; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Wednesday,
March 14, 2001

Part II

Environmental Protection Agency

Final Modification of the National Pollutant Discharge Elimination System (NPDES) General Permit for the Eastern Portion of the Outer Continental Shelf (OCS) of the Gulf of Mexico (GMG280000); Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6944–5]

Final Modification of the National Pollutant Discharge Elimination System (NPDES) General Permit for the Eastern Portion of the Outer Continental Shelf (OCS) of the Gulf of Mexico (GMG280000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final modification of NPDES general permit for the Eastern Portion of the Outer Continental Shelf (OCS) of the Gulf of Mexico (GMG2800000).

SUMMARY: The Regional Administrator (RA) of EPA, Region 4 (Region 4), is today providing notice of final modification of the National Pollutant Discharge Elimination System (NPDES) general permit for the OCS of the Gulf of Mexico (General Permit No. GMG280000) for discharges in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435, subpart A) as authorized by section 402 of the Clean Water Act ("CWA" or the "Act"), 33 U.S.C. 1342. The existing general permit, issued by Region 4, and published at 63 FR 55718, October 16, 1998, authorizes discharges from exploration, development, and production facilities located in and discharging to all Federal waters of the Eastern Gulf of Mexico seaward of the outer boundary of the territorial seas.

This permit modification is in accordance with a settlement entered into by EPA with various parties which filed a petition for review of the October 16, 1998, general permit in the Fifth Circuit Court of Appeals under the caption *Marathon Oil Company et al.* v. *Browner, Civ. 99–60090*. After the permit was issued, and aside from other provisions within the permit which specify that any operator authorized by the permit may request to be excluded from coverage and receive an individual permit pursuant to 40 CFR 122.28(a)(4)(iii), EPA determined that the method for calculating effluent limitations and monitoring requirements for produced water discharges that appear as part I.B.3 in the permit are not appropriate for coverage under a general permit in the manner set forth in the October 16, 1998, general permit. The intent of this modification is to establish a table of critical dilution concentrations for use in determining toxicity limitations. Those permittees that have produced water discharges that would fall outside of the limits of the modified permit may use a diffuser to achieve allowable critical dilution concentrations, or to apply for and receive individual NPDES permits.

The following provides notice of the final modification of the general permit including responses to comments. Modifications include: changing the general permit numerical designation; requiring permittees to indicate what type of effluents the facility is expected to discharge within the written notification of intent; allowing approval of a shorter notice to drill (NTD) notification period in certain circumstances; inclusion of a new table to be used by those permittees discharging produced water to calculate the critical dilution concentration, or the option of using a diffuser to increase mixing; and the addition of limitations and monitoring requirements for those permittees discharging chemically treated freshwater or seawater or condensation as a result of production processes. Any operator seeking coverage under the general permit may be subject to some or all of the modifications.

Finally, EPA also is providing today some additional clarifications and minor corrections of existing general permit language based upon questions and comments received by the Agency subsequent to the original permit issuance and draft modification. This revision is discussed in detail later in this document.

DATES: This general permit modification shall become effective on March 14, 2001.

ADDRESSES: The complete administrative record is available from the United States Environmental Protection Agency, Region 4; Freedom of Information Officer; Atlanta Federal Center; 61 Forsyth St. S.W.; Atlanta, GA 30303–3104. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. William Truman, Environmental Scientist, telephone number (404) 562–9457, or at the following address: United States Environmental Protection Agency, Region 4; Water Management Division; NPDES and Biosolids Permits Section; Atlanta Federal Center; 61 Forsyth Street S.W.; Atlanta, GA 30303.

SUPPLEMENTARY INFORMATION:

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I. Introduction

In 1972, section 301(a) of the Federal Water Pollution Control Act (also referred to as the Clean Water Act) was amended to provide that the discharge of any pollutants to waters of the United States (U.S.) from any point source is unlawful, except if the discharge is in compliance with an NPDES permit.

On October 16, 1998 (63 FR 55718), Region 4, issued a general permit for discharges of pollutants from exploration, development, and production facilities located in all Federal waters of the Eastern Gulf of Mexico seaward of the outer boundary of the territorial seas. The previous permit (July 9, 1986, reissued by Region 4 in 1991) was issued jointly by Region 4 and Region 6. Region 6 subsequently, reissued a permit in 1992 and 1999 for the Western Portion of the Outer Continental Shelf (Western Planning Area).

For consistency, Region 4, developed a permit similar to those issued by Region 6, taking into account any site-specific considerations. Both Regions adopted the same method of determining produced water toxicity limitations using the Cornell Mixing Zone Expert System (CORMIX) to calculate critical dilutions. However, information from the vast number of operating facilities in the Western Planning Area as compared to the relatively few operating facilities in the Eastern Planning Area, enabled Region 6 to develop model input parameters based upon information from a large number of operating facilities. Region 6 also was able to develop a series of critical dilution tables based upon this information and critical dilution tables for a large segment of potential permittees were developed and included within the Region 6 general permit.

In this modification, EPA is publishing critical dilution tables as part of the general permit, such as those used in Region 6's general permit. Due to the fact that fewer than 30 produced water dischargers exist in Region 4's permit coverage area, Region 4 elected to model the toxicity limitations using the range of data gathered from the operators within this area. Region 4 believes this approach will include all the expected permittees and will avoid the significant resource demands that would have been required to support a

critical dilution table for the ranges used by Region 6. The derivation of critical dilution tables on the scale of those developed by Region 6 would have required over 200 runs of the CORMIX model just to generate ranges that take into account the variations in discharge flow rate, discharge pipe diameter, and distance from the pipe to the sea floor. Currently, EPA is unaware of any facilities in Region 4's area which fall outside of the critical dilution tables in today's final general permit. The small number of potential permittees did not justify the expenditure of available resources to produce numerous tables.

EPA, Region 4, has modified this general permit by including a critical dilution table comparable to those utilized by the Region 6 general permit. In accordance with 40 CFR 122.28(3)(i) and (c)(1), any owner or operator with a facility with produced water effluent will be required to meet the critical dilution values within the limits of the modified permit, or to apply for and obtain an individual permit in order to discharge into U.S. waters. Existing discharges of produced water shall continue to be authorized under the administratively extended 1986 general permit, if an individual permit application is received within 120 days of the effective date of the permit modification. The 1986 general permit coverage shall automatically terminate on the date final action is taken on the individual NPDES permit application.

Additionally, EPA has received numerous requests from the regulated community regarding the need of a NPDES permit for the discharge of fluids used in the hydrostatic testing of pipelines. These fluids primarily consist of seawater, biocides, corrosion inhibiting solvents (CIS), and other treatment chemicals. The Region 6 general permit addresses this activity under miscellaneous discharges with prescribed limits on chemical concentration and toxicity. For consistency, Region 4, has modified the general permit to include effluent limitations and monitoring requirements for chemically treated seawater and freshwater.

EPA, Region 4, will include an additional requirement for submitting an Notice of Intent (NOI). Under paragraph (4), part I.4., Notification Requirements (Existing Sources and New Sources), the permittee shall provide information on the types of discharges expected along with data regarding outfall locations.

In addition, to further distinguish permits issued under this general permit from those previously issued by Regions 4 and 6, Region 4 proposes to modify the general permit number to include an alpha character in the 6th position. Permit coverage has been assigned as GMG28A001–A999, GMG28B001–B999, GMG28C001–C999, etc. The permit numbers for operations currently covered by this permit will change to reflect the new system.

II. Coverage of General Permit

Section 301(a) of the CWA provides that the discharge of pollutants is unlawful, except in accordance with the terms of an NPDES permit. The EPA has determined that oil and gas facilities seaward of the 200 meter water depth in certain parts of the Eastern Portion of the Gulf of Mexico as described in the NPDES general permit are more appropriately controlled by a separate general permit, individual permits, or both, 40 CFR 122.28(c). This determination covers both existing sources and new sources. This decision is based on the Federal regulations at 40 CFR 122.28, 40 CFR part 125 (Subpart M—Ocean Discharge Criteria); the Environmental Impact Statement; and the Agency's previous decisions in other areas of the Gulf of Mexico's OCS. As in the case of individual permits, noncompliance with any condition of a general permit constitutes an enforceable violation of the Act under section 309 of the Act.

With this permit modification, all lease blocks with operating facilities discharging produced water are required to meet the critical dilution limitations allowed under the modified permit, or to apply for and obtain individual permits in order to discharge into waters of the U.S. This notice will also clarify and correct certain aspects of the general permit issued on October 16, 1998.

III. Changes From the August 8, 2000 Proposed General Permit Modifications (65 FR 48503)

- Permittees are now required to submit a NTD within fourteen (14) days after the drilling rig moves on location.
- Produced water toxicity limitation calculation is further clarified. Produced water discharges must meet the limiting permissible concentration (LPC) at the edge of a 100 meter mixing zone. The LPC is defined as 0.1 times the LC_{50}. The LPC must be equal to or greater than the predicted effluent concentration at the edge of a 100 meter mixing zone. Predicted effluent concentrations, referred to as "Critical Dilutions," are presented in Table 4– and Table 4–A for a range of discharge rates and pipe diameters.
- Permittees wishing to increase mixing may use a diffuser to meet critical dilution limitations. Permittees shall submit a certification that the diffuser, seawater addition, or multiple discharge ports has been installed and state the critical dilution and corresponding LC_{50} in the certification. The CORMIX2 model runs shall be retained by the permittee as part of its NPDES records.
- The 403(c) Reopener clause has been deleted.
- The critical dilutions for toxicity limitations for the discharge of freshwater and seawater to which chemicals have been added shall be determined using Tables 5–A or 5–B. These tables were in the preamble, but omitted from the draft permit modification.
- Species and test methods for performing the required toxicity test for chemically treated freshwater and saltwater has been added.
- Two new definitions have been added to Part IV.B., for condensation water and Eastern Portion of the Gulf of Mexico. The numbering of the definitions was also corrected.

IV. Summary of Responses to Comments on the Proposed Permit

Public notice of the draft permit modification was published at 65 FR 48503 (August 8, 2000) with a notice to consider holding public hearings on the Region's proposal, if requests for such hearings were received. No requests for public hearings were received. Copies of comments received during this action from interested parties have been considered in a formulation of a final determination regarding Region 4's final action today on the modification of NPDES Permit No. GMG280000. A summary of the permit related comments are summarized below.

Summary of Permit Preamble Related Comments

Comment 1: Commenter makes numerous comments in regards to the addition of chemically treated freshwater and seawater to the category of "Miscellaneous Discharges."

Response: EPA agrees with the commenter's editorial comment and has made the corresponding revision to the preamble in the permit.

Summary of Permit Modification Related Comments

Comment 2: Commenter has stated that there may be a confusion of terms regarding the use of Western, Central, and Eastern Planning Areas, and the Western and Eastern Gulf of Mexico. The Planning Areas are Mineral Management Service (MMS) planning tools for lease sales and do not have the

same notation as the Eastern and Western Gulf.

Response: EPA agrees with the commenter's editorial comment and has added a definition to the permit to avoid any confusion. Region 4's operational jurisdiction, the Eastern Portion of the Gulf of Mexico, is the Federal waters in the Gulf of Mexico seaward of the territorial seas of Mississippi, Alabama, and Florida.

Comment 3: Commenter denotes that certain information regarding the history of the general permit and continued permit coverage, though discussed in the preamble, is not included in the permit. The proposed language is suggested: Authorization to Discharge Under the National Pollutant Discharge Elimination System

"In accordance with 40 CFR 122.28(b)(3)(i) and (c)(1), any owner or operator with a facility with produced water effluent are required to meet the critical dilution values within the limits of the table, or to apply for and obtain an individual permit in order to discharge into U.S. waters. Existing discharges of produced water shall continue to be authorized under the administratively extended 1986 general permit, if an individual permit application is received within 120 days of the effective date of the permit modification. The 1986 general permit coverage shall automatically terminate on the date final action is taken on the individual NPDES permit application."

Response: EPA agrees with the commenter's suggested wording for the permit regarding the background of the general permit. EPA has revised the language of the permit accordingly.

Comment 4: Regarding the new permit coverage numbering convention, the following clarification language is suggested:

"The new numbering convention is, e.g., GMG28A001–A999, GMG28B001–B999, GMG28C001–C999, etc. For all notices of general permit coverage provided since the effective date of the November 16,1998 permit, GMG280xxx and GMG289xxx designations shall be changed to GMG28Axxx. The last three digits of the assigned permit number will remain the same."

Response: EPA agrees with the commenter's suggested wording for the permit regarding the numbering for general permit coverage. EPA has revised the language of the permit accordingly.

Comment 5: Stated that EPA should change its proposed identification system and use American Petroleum Institute (API) and MMS coding system. Stated that MMS will be analyzing Discharge Monitoring Reports (DMR) as part of its initiatives to meet the requirements of Government and Performance Results Act and to take full advantage of the DMR information submitted to EPA, we ask that operators link discharge information to discharge locations by using API and MMS codes.

Response: The current structure of EPA data fields does not allow the Region the flexibility to implement the American Petroleum Institute/Minerals Management Service numbers and currently are not amenable to change.

Comment 6: Commenter states that the site-specific NOI requirements dealing with bottom surveys are inappropriate for a general permit and should apply only in limited areas.

Response: EPA believes that in order to provide adequate protection to the marine environment, site-specific information is needed to determine the types of communities and habitats present at the site of discharge. EPA also believes that requiring individual permitting in order to obtain such information is unnecessarily time consuming and burdensome. EPA agrees that information exists for some areas of biological concern to predetermine their locations. However, because only a small proportion of the seafloor within either the Central or Eastern Planning Areas have been adequately surveyed, EPA believes that it cannot be said, with absolute certainty that other areas requiring more stringent discharge requirements do not exist. We feel that there is sufficient potential for the existence of important biological communities in, as of yet, unexplored areas.

Comment 7: Commenter states that in the submittal of the NOI, the location of the "outfalls" should be changed to "facility," and the added requirement for identifying "expected discharges" be deleted. By the nature of general permit coverage all listed discharges are permitted.

Response: EPA agrees that coverage under the general permit allows a permittee to utilize all listed discharges, however, some of the operations will not have a discharge for some of the listed wastewater sources. Also, this information will assist EPA in the review of DMR data for "specific discharges." EPA believes that the information regarding expected discharges may be useful in future studies regarding water quality of the Eastern Portion of the Gulf of Mexico and that the request does not present an undo burden on the permittee. EPA agrees with the commenter's statement about the change in location data from "outfall" to "facility."

Comment 8: In discussing the flexibility in placement of a surface location, both 500 feet and 500 meters are used. The commenter wants to know if the difference in units is correct or a typographical error.

Response: A final surface location should be within 500 meters of the proposed surface location. An additional photodocumentation survey is not required, provided the final location is within 500 meters of an area previously surveyed. The difference in units was a typographical error.

Comment 9: Commenter states that in submitting an NOI on a non-operational or newly acquired lease, an Exploration Plan, Development and Production Plan, or Development Operations Coordination Document should be first submitted to MMS.

Response: EPA agrees with the commenter's editorial comment and will revise the language in Part I.A.4. accordingly.

Comment 10: Clarification is provided regarding permit transfers, but not included in the permit modification. Suggested language should replace Part II.D.3. of the general permit:

"Should any new owner or operator notify EPA prior to the transfer of operatorship, no additional NOI documentation need be submitted.

If the facility remains operational, then the NOI by the new operator should reference the previously submitted NOI, EPA's authorization to proceed, and the assigned permit number. EPA will then provide the new operator a notice of inclusion and a newly assigned permit number."

Response: EPA agrees with the commenter and will provide language for the permit regarding the notification of a transfer.

Comment 11: MMS no longer requires a photodocumentation survey in the Central Planning Area in water depths less than 100 meters. MMS still requires this documentation in the Eastern Planning Area.

Response: EPA agrees with the commenter's editorial comment and has made the corresponding revision of Part I.A.4(11) in the permit.

Comment 12: The NTD is provided to make EPA aware that drilling activity is taking place. Providing notice to EPA 14 days after the drilling rig moves on location provides EPA the information they need while eliminating the 60-day administrative burden caused by changing rig schedules.

Response: EPA understands the variations in rig schedules and unforeseen conditions that may prevent previous notification of a drilling rig's move-on date. EPA agrees with the

commenter's suggested wording for the permit regarding the NTD and will revise the language of the permit accordingly.

Comment 13: The commenter would like to reduce the amount of paperwork needed regarding the re-notification process for continued coverage under the general permit after it's expiration.

Response: EPA disagrees with the commenter's suggested wording. As with individual NPDES permits, EPA has determined that continued coverage under an expired general permit, if it has not been reissued before its expiration date, can only be granted if another NOI is submitted prior to the expiration date of the general permit.

Comment 14: States that the tables developed for produced water discharges are too restrictive and should reflect the multiple parameters utilized in the Region 6 critical dilution tables for produced water.

Response: Due to the fact that fewer than 30 produced water dischargers exist in Region 4's permit coverage area, Region 4 elected to model the toxicity limitations using the range of data gathered from the operators within this area. Region 4 believed this approach will include all the expected permittees and will avoid the significant resource demands that would have been required to support a critical dilution table for the ranges used by Region 6. The derivation of critical dilution tables on the scale of those developed by Region 6 would have required over 200 runs of the CORMIX model just to generate ranges that take into account the variations in discharge flow rate, discharge pipe diameter, and distance from the pipe to the sea floor. Currently, EPA is unaware of any facilities in Region 4's area which fall outside of the proposed critical dilution tables. The small number of potential permittees did not justify the expenditure of available resources to produce numerous tables.

In accordance with 40 CFR 122.28(3)(i) and (c)(1), any owner or operator with a facility with produced water effluent will be required meet the critical dilution values within the limits of the table, or CORMIX model, or to apply for and obtain an individual permit in order to discharge into U.S. waters.

Comment 15: Requested further clarification regarding the calculation of specific produced water discharge toxicity.

Response: The Region recognizes the need to provide additional clarification regarding the produced water toxicity and will revise the language in the permit accordingly.

Comment 16: The commenter states that the Agency should allow the use of diffusers, dilution or split discharges to increase mixing in order to achieve compliance with the produced water toxicity limitation.

Response: The permittee determines the produced water toxicity limitation based on a facility's site-specific water column conditions and discharge configuration. An operator can utilize any number of methods to increase the dilution of their wastestream in configuring their effluent discharge. The configuration that is ultimately utilized must be used to model the facility-specific toxicity limitation. Commingling or diluting wastestreams prior to discharging effluent, however, cannot be used as a method to achieve NPDES permit compliance. EPA agrees with the commenter's suggested wording for the permit regarding the use of a diffuser, etc. to meet produced water toxicity limitations. EPA has revised the language of the permit accordingly.

Comment 17: The commenter suggests language to correct the frequency at which toxicity tests are required. Tests are required every 2 months, rather than monthly.

Response: EPA agrees with the commenter's suggested wording for the permit regarding frequency of toxicity testing. EPA has revised the language of the permit accordingly.

Comment 18: Proposes that the specific use for chemically treated freshwater or seawater, that was added to miscellaneous discharges, not be restricted to only the hydrostatic testing of new piping and pipelines.

Response: EPA agrees with the commenter's editorial comment and has made the corresponding revision to Part I.B. in the permit.

Comment 19: Proposes the addition of a new waste stream outside of the more general "miscellaneous discharges" for discharges of chemically treated freshwater and seawater. This would separate miscellaneous discharges into two categories, e.g., those with limitations of no free oil and the stated exception and those with limitations of no free oil, the stated exception, treatment chemical limitations, toxicity testing, and flow recording.

Response: EPA agrees with the proposed addition of a separate miscellaneous discharge category, and has made the corresponding revision to Part I.B. in the permit.

Comment 20: Tables 5–A and 5–B were mislabeled in the preamble and omitted from the permit.

Response: EPA agrees with the commenter's observation and has made the corresponding correction in the permit.

Comment 21: Additional language proposed to define the species and test methods for performing the required toxicity test for chemically treated freshwater and seawater. The proposed language is consistent with the EPA Region 6 permit.

Response: EPA agrees with the commenter's suggested wording for the permit regarding the toxicity testing for chemically treated freshwater and seawater. EPA has revised the language of the permit accordingly.

Comment 22: Proposed language regarding methods to increase dilution for produced water discharges should apply to seawater and freshwater that has been chemically treated.

Response: EPA agrees with the commenter's suggested wording. EPA has revised the language of the permit accordingly.

Comment 23: Commenters have addressed the addition of the 403(c) Reopener Clause that was the result of the President's Executive Order No. 13158 on Marine Protected Areas dated May 26, 2000. "The proposed 403(c) Reopener Clause is in direct contravention of EPA's duly promulgated regulations as set forth in 40 CFR 122.62–122.64 and 40 CFR 125.123. Sections 40 CFR 122.62–122.64 describe the available causes for modification or revocation of NPDES permits, of which the proposed language is clearly not included. Revocation is only allowable if the permittee requests or agrees with it. Furthermore, the proposed language is not permissible because it fails to specify that the "new data or requirements" must not have been available at the time of permit issuance, a requirement of 40 CFR 122.62(a)(2).

In addition, the ocean discharge criteria regulations do not provide authority for this provision. The Reopener clause at 40 CFR 125.123(d)(4) applies if and only if the Director lacks sufficient information to determine whether there is unreasonable degradation to the marine environment prior to permit issuance. In this case, the Director has already made such a finding prior to the general permit issuance in October 1998. Therefore, proposed language is not applicable. Furthermore, such a Reopener clause relates only to "continued discharges" not "increased discharges" and can only be based in the case of "new data," not "new requirements." Also, the provisions of 40 CFR 125.123(d)(4) do not pertain to "protecting" the marine environment or "special aquatic sites."

Additionally, inclusion of such a provision may very well be inconsistent with statutory (33 U.S.C. 1316(d)) and regulatory (40 CFR 122.29(d)) protection afforded by new sources with respect to complying with new source performance standards."

Response: EPA has addressed the issue regarding the Reopener Clause. Alternate permit modification language has been added to Part III.B. of the general permit. As future reference, however, pursuant to 40 CFR § 122.64, EPA may revoke or terminate a permit without the permittee's permission.

Comment 24: Stated that a provision to the permit should be added requiring permittees to inform all contractors of the discharge limitations of their permit. Particularly important in the case of individual permits where discharge limitations may be imposed that are more stringent than those of the general permit. It is only fair to ensure that contractors are provided with information regarding the permit conditions, because of the increasing use of contractors by the offshore operating companies who will be the permittees.

Response: The operator is liable and responsible for the information on monitoring requirements and compliance with the limitations and conditions within the general permit. If the operator feels that a contractor will impact on compliance with the requirements of the general permit, then it is incumbent on the operator to bring this to the attention of the contractor.

Comment 25: The commenter feels that a Reopener clause should be added to authorize the discharge of drill cuttings from synthetic-based drilling mud systems. In the final Coastal Effluent Guidelines, the Agency recognized that additional categories of drilling fluids, specifically Synthetic Based Mud (SBM) and Enhanced Mineral Oil (EMO), were warranted. The Eastern OCS general permit should do the same.

Response: EPA is aware that the oil and gas industry has developed additional drilling fluid types, including synthetic fluid-based muds (SBM) and has acknowledged this new technology within the permit. EPA Headquarters is currently developing effluent limitations guidelines (ELGs) for SBMs. Once the final ELGs are published, EPA Region 4 may consider modifying the existing permit to incorporate SBMs per the limitations of the guidelines. For this permit, however, SBMs are not authorized for discharge. Operators who wish to use SBMs should submit an individual permit application.

Comment 26: Language added to Part III.B. Definitions to define "condensation water."

Response: EPA agrees with the commenter's editorial comment and will insert the following definition for "condensation water" as a new paragraph (14):

"Condensation water means water that is produced as a result of condensation during the production process that results in a direct discharge without the condensate being used for any other purpose prior to discharge."

V. Cost Estimate

The cost of compliance with a general permit is lower than that of an individual permit. Therefore, there is a comparative financial benefit to coverage under the general permit, even with produced water requirements, as compared to coverage under an individual permit.

VI. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their "regulatory actions" on State, local, and tribal governments and the private sector. UMRA uses the term "regulatory actions" to refer to regulations. (See, e.g., UMRA section 201, "Each agency shall * * * assess the effects of Federal regulatory actions * * * (other than to the extent that such regulations incorporate requirements specifically set forth in law)"). UMRA section 102 defines "regulation" by reference to section 658 of Title 2 of the U.S. Code, which in turn defines "regulation" and "rule" by reference to section 601 (2) of the Regulatory Flexibility Act (RFA). That section of the RFA defines "rule" as "any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of the Administrative Procedure Act (APA), or any other law * * *"

NPDES general permits are not "rules" under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits also are not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comments on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide an "opportunity for a hearing." Thus, NPDES general permits are not "rules" for RFA or UMRA purposes.

Title II of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under UMRA section 202, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, UMRA section 205 generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of UMRA section 205 do not apply when they are inconsistent with applicable law. Moreover, UMRA section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes an explanation with the final rule why the alternative was not adopted.

EPA has determined that the proposed permit modification would not contain a Federal requirement that may result in expenditures of $100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any one year.

The Agency also believes that the permit would not significantly nor uniquely affect small governments. For UMRA purposes, "small governments" is defined by reference to the definition of "small government jurisdiction" under the RFA. (See UMRA section 102(1), referencing 2 U.S.C. 658, which references section 601(5) of the RFA.) "Small governmental jurisdiction" means government of cities, counties, towns, etc. with a population of less than 50,000, unless the agency establishes an alternative definition.

The permit modification would not uniquely affect small governments because compliance with the modified permit conditions affects small governments in the same manner as any other entities seeking coverage under the permit. Additionally, EPA does not expect small government to operate facilities authorized to discharge by this permit.

VII. Paperwork Reduction Act

The information collection required by these permits has been approved by the Office of Management and Budget (OMB) under the provisions of the PRA, 44 U.S.C. 3501 *et seq.*, in submission made for the NPDES permit program and assigned OMB control numbers

2040–0086 (NPDES permit application) and 2040–0004 (discharge monitoring reports).

EPA did not prepare an Information Collection Request (ICR) document for today's permit modification because the information collection requirements in this permit have already been approved by OMB in submissions made for the NPDES permit program under the provisions of the CWA.

VIII. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

Today's modified general permit is not subject to the RFA, which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA only applies to rules subject to notice and comment rulemaking requirements under the APA or any other statute. As previously stated, the permit modification proposed today is not a "rule" subject to the RFA. Although this proposed general permit is not subject to the RFA, EPA nonetheless has assessed the potential of this rule to adversely impact small entities subject to this general permit and, in light of the facts presented above, I hereby certify pursuant to the provisions of the RFA that these proposed general permit modifications will not have a significant impact on a substantial number of small entities. This determination is based on the fact that the vast majority of the parties regulated by this permit have greater than 500 employees and are not classified as small businesses under the Small Business Administration regulations established at 49 FR 5024 (February 9, 1984). For those operators having fewer than 500 employees, this permit issuance will not have significant economic impact. These facilities are classified as Major Group 13—Oil and Gas Extraction SIC Crude Petroleum and Natural Gas.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: March 2, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Final Modification of the National Pollutant Discharge Elimination System (NPDES) General Permit for the Eastern Portion of the Outer Continental Shelf (OCS) of the Gulf of Mexico (GMG280000)

Final Modification of National Pollutant Discharge Elimination System (NPDES) General Permit for the Eastern Portion of the Outer Continental Shelf (OCS) of the Gulf of Mexico (GMG280000)

For reasons set forth in the preamble, the NPDES General Permit for the Eastern Portion of the Outer Continental Shelf (OCS) of the Gulf of Mexico (GMG280000) (63 FR 55718–55762, October 16, 1998) is modified as described below. EPA has deleted Appendix A from the general permit along with several other additional modifications and clarifications. These modifications will become effective on the date of **Federal Register** publication of the modifications.

General Permit Number [Modification]

(1) As of the effective date of the **Federal Register** publication of these modifications, the general permit number, originally identified as GMG280000, is modified to read as GMG28AXXX, where the 6th significant figure will carry an alphabetic designation. The new numbering convention is, e.g., GMG28A001–A999, GMG28B001–B999, GMG28C001–C999, etc. For all notices of general permit coverage provided since the effective date of the November 16, 1998 permit, GMG280xxx and GMG289xxx designations shall be changed to GMG28Axxx.

(2) On page 55746, the next to the last paragraph is no longer applicable and is replaced with a new paragraph to provide additional information as follows:

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In accordance with 40 CFR 122.28(b)(3)(i) and (c)(1), any owner or operator with a facility with produced water effluent is required to meet the critical dilution values within the limits of the modified permit, or approved CORMIX modeling, or to apply for and obtain an individual permit in order to discharge into U.S. waters. Existing discharges of produced water shall continue to be authorized under the administratively extended 1986 general permit, if an individual permit application is received within 120 days of the effective date of the permit modification. The 1986 general permit coverage shall automatically terminate on the date final action is taken on the individual NPDES permit application.

Part I. Requirements for NPDES Permits

(3) On page 55747, paragraph 4 is modified to add additional information requirements and corrected to update the technical references, as follows:

Section A. Permit Applicability and Coverage Conditions

4. Notification Requirements (Existing Sources and New Sources)

Written notification of intent (NOI) to be covered in accordance with the general permit requirements shall state whether the permittee is requesting coverage under the existing source general permit or new source general permit and shall contain the following information:

(1) The legal name and address of the owner or operator;

(2) The facility name and location, including the lease block assigned by the Department of Interior, or if none, the name commonly assigned to the lease area;

(3) The number and type of facilities and activity proposed within the lease block;

(4) The waters into which the facility is or will be discharging; including a map with longitude and latitude of facility location and expected discharges identified by the nomenclature used in Part I., section B.1–11. Additional information may be requested by the Director regarding miscellaneous discharges.

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(10) Technical information on the characteristics of the sea bottom in accordance with MMS Notice To Lessees 98–20, Shallow Hazard Requirements, or the most current MMS guidelines for shallow hazard investigation and analysis."

(11) MMS live bottom survey in accordance with MMS Notice To Lessees 99–G16 Live-Bottom Surveys and Reports, or the most current MMS guidelines for live-bottom surveys and reports.

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(4) On page 55747, paragraph 4, is corrected to clarify NOI notification requirements for a newly acquired lease as follows:

For operating leases, the NOI shall be submitted within sixty (60) days after publication of the final determination on this action. Non-operational facilities are not eligible for coverage under these new general permits. No NOI will be accepted from either a non-operational or newly acquired lease until such time as an exploration plan or development production plan has been prepared and submitted to MMS.

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(5) On page 55747, paragraph 4, is modified regarding NTD notice requirements and clarified to update the Agency address for submission of notices under the general permit follows:

For drilling activity, the operator shall submit a Notice to Drill (NTD) within

fourteen (14) days after the drilling rig moves on location. This NTD shall contain: (1) The assigned NPDES general permit number assigned to the facility, (2) the latitude and longitude of the facility, (3) the water depth, and (4) the estimated length of time the drilling operation will last. This NTD shall be submitted to Region 4 at the address above, by certified mail to: Director, Water Management Division; NPDES and Biosolids Permit Section; U.S. EPA, Region 4; Atlanta Federal Center; 61 Forsyth Street, S.W.; Atlanta, GA 30303–8960.

* * * * *

All NOIs, NTDs, NCOs, and any subsequent reports required under this permit shall be sent by certified mail to the following address: Director, Water Management Division; NPDES and Biosolids Permits Section; U.S. EPA, Region 4; Atlanta Federal Center; 61 Forsyth Street, S.W.; Atlanta, GA 30303–8960.

* * * * *

(6) On page 55747, paragraph 4, is modified to remove the reference to Appendix A and corrected to remove two typographical errors as follows:

In addition, a notice of commencement of operations (NCO) is required to be submitted for each of the following activities: placing a production platform in the general permit coverage area (within 30 days after placement); and discharging produced water within the coverage area.

6. Intent To Be Covered by a Subsequent Permit

(7) On page 55747, paragraph 6, is clarified to update the Agency address for submission of notices under the general permit follows:

This permit shall expire on October 31, 2003. However, an expired general permit continues in force and effect until a new general permit is issued. Lease block operators authorized to discharge by this permit shall by certified mail notify the Director, Water Management Division; NPDES and Biosolids Permit Section; U.S. EPA, Region 4; Atlanta Federal Center; 61 Forsyth Street, S.W.; Atlanta, GA 30303–8960, on or before April 30, 2003, that they intend to be covered by a permit that will authorize discharge from these facilities after the termination date of this permit on October 31, 2003.

Permittees must submit a new NOI in order to continue coverage under this general permit after it expires. In lieu of providing the information required by paragraph 4. of this section, the permittee may submit a list of facilities covered by the general permit and their associated permit coverage numbers. Facilities that have not submitted an NOI under the permit by the expiration date cannot become authorized to discharge under any continuation of this NPDES general permit. All NOI's from permittees requesting coverage under a continued permit should be sent by certified mail to: Director, Water Management Division; NPDES and Biosolids Permits Section; U.S. EPA, Region 4; Atlanta Federal Center; 61 Forsyth Street, S.W.; Atlanta, GA 30303–8960.

(8) On page 55749, Section B, paragraph 3 is modified to remove the reference to Appendix A, correct the arithmetic formula regarding limiting permissible concentrations, correct the reporting requirement for oil and grease limitation, and referencing the new produced water critical dilution tables, as follows:

Section B. Effluent Limitations and Monitoring Requirements

3. Produced Water

(b) Limitations. Oil and Grease. Produced water discharges must meet both a daily maximum limitation of 42 mg/l and a monthly average limitation of 29 mg/l for oil and grease. A grab sample must be taken at least once per month. The daily maximum samples may be based on the average concentration of four grab samples taken within the 24-hour period. If only one sample is taken for any one month, it must meet both the daily and monthly limits. If more samples are taken, they may exceed the monthly average for any one day, provided that the average of all samples taken meets the monthly limitation. The gravimetric method is specified at 40 CFR part 136. The highest daily maximum oil and grease concentration and the monthly average concentration shall be reported on the monthly DMR.

Toxicity. Produced water discharges must meet the limiting permissible concentration (LPC) at the edge of a 100 meter mixing zone. The LPC is defined as 0.1 times the LC_{50}. The LPC must be equal to or greater than the predicted effluent concentration at the edge of a 100 meter mixing zone. Predicted effluent concentrations, referred to as "Critical Dilutions," are presented in Table 4– and Table 4–A for a range of discharge rates and pipe diameters. Critical dilution shall be determined using Tables 4 and 4–A of this permit based on the discharge rate most recently reported on the discharge monitoring report, discharge pipe diameter, and water depth between the discharge pipe and the bottom. Facilities which have not previously reported produced water flow on the discharge monitoring report shall use the highest monthly average flow measured during the previous twelve months for determining the critical dilution from Tables 4 and 4–A of this permit. LC_{50} shall be calculated by conducting 96-hour toxicity tests every 2 months using Mysidopsis bahia and inland silverside minnow.

(Exception) Permittees wishing to increase mixing may use a horizontal diffuser, add seawater, or may install multiple discharge ports. Permittees using increased mixing shall install the system such that the 96-hour LC_{50} limit is equal to or greater than 10 times the critical dilution ($LC_{50} = 10 \times$ critical dilution). The projected percent effluent (critical dilution) at the edge of the 100 meter mixing zone will be calculated using CORMIX2, with the following input conditions:

Density gradient = 0.163 kg/m^3/m
Ambient seawater density at diffuser depth = 1023.0 kg/m^3
Produced water density = 1070.2 kg/m^3
Current speed = 5 cm/sec (<200 m); 15 cm/sec (>200m)

Permittees shall submit a certification that the diffuser, seawater addition, or multiple discharge ports has been installed and state the critical dilution and corresponding LC_{50} in the certification. The CORMIX2 model runs shall be retained by the permittee as part of its NPDES records. Permittees using vertical aligned multiple discharge ports shall provide vertical separation between ports. When multiple discharge ports are installed, the depth difference between the discharge port closest to the seafloor and the seafloor shall be the depth difference used as the parameter to determine critical dilution. The critical dilution value shall be based on the port flow rate (total flow divided by the number of discharge ports) and based on the diameter of the discharge port (or smallest discharge port, if they are different styles).

When seawater is added to produced water prior to discharge, the total produced water flow, including the added seawater, shall be used in determining the critical dilution.

* * * * *

(9) On page 55749, paragraph 7 is modified to further define the exemption for sanitary waste discharges, as follows:

7. Sanitary Waste (Facilities Continuously Manned by 10 or More Persons)

(b) Limitations. Residual Chlorine. Total residual chlorine is a surrogate parameter for fecal coliform. Discharges of sanitary waste must contain a minimum of 1 mg residual chlorine/l and shall be maintained as close to this concentration as possible. The approved analytical method is Hach CN–66-DPD. A grab sample must be taken once per month and the concentration reported.

(Exception) Any facility which properly operates and maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under section 312 of the Act shall be deemed in compliance with permit limitations for sanitary waste. The MSD shall be tested annually for proper operation and the test results maintained at the facility. The operator shall indicate use of an MSD on the monthly DMR.

* * * * *

(10) On page 55750, paragraph 8 is modified to further define the exemption for sanitary waste discharges, as follows:

8. Sanitary Waste (Facilities Continuously Manned by 9 or Fewer Persons or Intermittently by Any Number)

(a) Prohibitions. Solids. No floating solids may be discharged to the receiving waters. An observation must be made once per day when the facility is manned, during daylight in the vicinity of sanitary waste outfalls, following either the morning or midday meal and at a time during maximum estimated discharge. The number of days solids are observed shall be recorded.

(Exception) Any facility which properly operates and maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under

section 312 of the Act shall be deemed in compliance with permit limitations for sanitary waste. The MSD shall be tested annually for proper operation and the test results maintained at the facility. The operator shall indicate use of an MSD on the monthly DMR.

* * * * *

(11) On page 55750, paragraph 10 is modified to include additional defined "miscellaneous discharges." as follows:

10. Miscellaneous Discharges. Desalination Unit Discharge; Blowout Preventer Fluid; Uncontaminated Ballast Water; Uncontaminated Bilge Water; Mud, Cuttings, and Cement at the Seafloor; Uncontaminated Seawater; Boiler Blowdown; Source Water and Sand; Uncontaminated Freshwater; Excess Cement Slurry; Diatomaceous Earth Filter Media; and waters resulting from condensation.

* * * * *

(12) On page 55750, paragraph 11 is added to include additional effluent limitations and monitoring requirements for the miscellaneous discharge of chemically treated freshwater and seawater, as follows:

11. Miscellaneous discharges of Freshwater and Seawater which have been chemically treated.

The discharge of freshwater and seawater to which chemicals have been added shall be limited and monitored by the permittee as specified in Tables 2 and 3 and as below.

(a) Free Oil. No free oil shall be discharged. Monitoring shall be performed using the visual sheen test method once per day when discharging on the surface of the receiving water or by use of the static sheen method at the operator's option. Both tests shall be conducted in accordance with the methods presented at IV.A.3 and IV.A.4. Discharge is limited to those times that a visual sheen observation is possible. The number of days a sheen is observed must be recorded.

(Exception): Miscellaneous discharges may be discharged from platforms that are on automatic purge systems without monitoring for free oil when the facility is not manned. Discharge is not restricted to periods when observation is possible; however, the static (laboratory) sheen test method must be used during periods when observation of a sheen is not possible, such as at night or during inclement conditions. Static sheen testing is not required for miscellaneous discharges occurring at the sea floor.

(b) Treatment Chemicals. The concentration of treatment chemicals in discharged chemically treated freshwater and seawater shall not exceed the most stringent of the following three constraints:

(1) The maximum concentrations and any other conditions specified in the EPA product registration labeling if the chemical is an EPA registered product, or

(2) The maximum manufacturer's recommended concentration, or

(3) 500 mg/l.

(c) Toxicity. The toxicity of discharged chemically treated freshwater and seawater shall be limited as follows: the 48-hour minimum and monthly average minimum No Observable Effect Concentration (NOEC), or if specified the 7-day average minimum and monthly average minimum NOEC, must be equal to or greater than the critical dilution concentration specified in this permit in Table 5-A for seawater discharges and 5-B for freshwater discharges. Critical dilution shall be determined using Table 5 of this permit and is based on the discharge rate, discharge pipe diameter, and water depth between the discharge pipe and the bottom. The monthly average minimun NOEC value is defined as the arithmetic average of all 48-hour average NOEC (or 7-day average minimum NOEC) values determined during the month. Compliance with the toxicity limitation shall be demonstrated by conducting 48-hour acute toxicity test using Mysidopsis bahia (Mysid shrimp) and Menidia beryllina (Inland silverside minnow). The test method is published in "Methods for Measuring Acute Toxicity of Effluents to Marine and Freshwater Organisms" (EPA/600/4–90/027F). The results for both species shall be reported on the monthly DMR, within two months of the discharge. The permittee shall submit a copy of all laboratory reports with the DMR.

(d) Monitoring Requirements for discharged chemically treated freshwater and seawater:

Flow. Once per month, an estimate of the flow (MGD) must be recorded.

Toxicity. The required frequency of testing for continuous discharges shall be determined as follows:

Discharge rate	Toxicity testing frequency
0–499 bbl/day	Once per year.
500–4,599 bbl/day	Once per quarter.
4,600 bbl/day and above.	Once per month.

Intermittent or batch discharges shall be monitored once per discharge but are required to be monitored no more frequently than the corresponding frequencies shown above for continuous discharges.

Samples shall be collected after addition of any added substances, including seawater that is added prior to discharge and before the flow is split for multiple discharge ports. Samples also shall be representative of the discharge. Methods to increase dilution also apply to seawater and freshwater discharges which have been chemically treated previously described for produced water in Part I. B.3

If the permittee has been compliant with this toxicity limit for one full year (12 consecutive months) for a continuous discharge of chemically treated seawater or freshwater, the required testing frequency shall be reduced to once per year for that discharge.

TABLE 5–A.—CRITICAL DILUTIONS (PERCENT EFFLUENT) FOR TOXICITY LIMITATIONS FOR SEAWATER TO WHICH TREATMENT CHEMICALS HAVE BEEN ADDED

Depth difference (meters)	Discharge rate (bbl/day)	Pipe diameter			
		>0" to 2"	>2" to 4"	>4" to 6"	>6"
All	0 to 1,000	12	24.7	24.5	24.6
	>1,000 to 10,000	11.2	12.4	12.2	14
	>10,000	9.6	24	23	20

TABLE 5–B.—CRITICAL DILUTIONS (PERCENT EFFLUENT) FOR TOXICITY LIMITATIONS FOR FRESHWATER TO WHICH TREATMENT CHEMICALS HAVE BEEN ADDED

Depth difference (meters)	Discharge rate (bbl/day)	Pipe diameter			
		>0" to 2"	>2" to 4"	>4" to 6"	>6"
All	0 to 1,000	1.1	1.2	2.9	2.9
	>1,000 to 10,000	19	39	28	24
	>10,000	13	63	41	74

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Part II. Standard Conditions for NPDES Permits

Section D. Reporting Requirements

(13) On page 55753, paragraph 3 is modified to further clarify permit transfers, as follows:

3. Transfers

This permit is not transferable to any person except after notice to the Regional Administrator. Any new owner or operator shall submit a notice of intent (NOI) to be covered under this general permit according to procedures presented at Part I.A.4. However, if a permittee notifies EPA prior to the transfer of operatorship, no additional NOI documentation need be submitted by the new operator. The Regional Administrator may require modification or revocation and reissuance of the permit to change the name of the permittee and to incorporate such requirements as may be necessary under the Act.

* * * * *

Part III. Monitoring Reports and Permit Modification

(14) On page 55754, Section A is corrected to recognize that monitoring reports are to be submitted by the facility operator, as follows:

Section A. Monitoring Reports

The operator of each facility shall be responsible for submitting monitoring results for each facility within each lease block.

On page 55754, a new paragraph is added to the end of Part III.B.

Part III. Monitoring Reports and Permit Modification

Section B. Permit Modification

This permit may be modified at any time if, on the basis of any new data, other than revised regulations, guidance, or test methods, that was not available at the time of permit issuance and would have justified the application of different permit conditions at the time of issuance. For NPDES general permits, this includes any information indicating that cumulative effects on the environment are unacceptable. Such cumulative effects on the environment may include unreasonable degradation of the marine environment due to continued discharges, in which case the Director, Water Division, Region 4, may determine that additional conditions are necessary to protect the marine environment. Any permit modification will be conducted in accordance with 40 CFR Parts 122.62 and 122.63.

* * * * *

Part IV. Test Procedures and Definitions

Section B. Definitions

On page 55755, a new paragraph 14 is inserted to define condensation water, as follows:

14. Condensation water means water that is produced as a result of condensation during the production process that results in a direct discharge without the condensate being used for any other purpose prior to discharge.

On page 55756, a new paragraph 26 is inserted to define Eastern Portion of the Gulf of Mexico, as follows:

26. Eastern Portion of the Gulf of Mexico is that area of Federal waters in the Gulf of Mexico seaward of the outer boundary of the territorial seas of Mississippi, Alabama, and Florida. This is EPA, Region 4's jurisdictional division.

On page 55756, a new paragraph 51 is inserted to define Synthetic Based Drilling Fluids (SBFs) as follows:

51. Synthetic Based Drilling Fluids (SBFs) are drilling fluids where the continuous phase is a synthetic material of combination of synthetic materials, with water as the dispersed phase.

The following two paragraphs 55 in Part IV.B. are renumbered as follows:

58. Uncontaminated Freshwater "freshwater which is discharged without the addition of chemicals; examples include: (1) discharges of excess freshwater that permit the continuous operation of fire control and utility lift pumps, (2) excess freshwater from pressure maintenance and secondary recovery projects, (3) water released during fire protection tests and training, and (4) water used to pressure test piping."

59. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

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On pages 55755 through 55757, due to the addition of new paragraphs 14, 26, 51 and the renumbering of the two paragraphs 55 to 58 and 59, the remaining paragraphs are renumbered appropriately.

Appendix A

(15) On page 55761, EPA has deleted appendix A and replaced it with two new Tables—Critical Dilution Tables 4 and 4–A, as follows:

TABLE 4–A.—PRODUCED WATER CRITICAL DILUTIONS (PERCENT EFFLUENT) FOR WATER DEPTHS OF GREATER THAN 200 METERS

Discharge rate (bbl/day)	Pipe diameter		
	>0" to 5"	>5" to 7"	>7" to 9"
>0 to 500	0.11	0.11	0.11
501 to 1000	0.22	0.22	0.22
1001 to 2000	0.37	0.37	0.37
2001 to 3000	0.48	0.48	0.48
3001 to 4000	0.56	0.56	0.56
4001 to 5000	0.65	0.66	0.66
5001 to 6000	0.73	0.78	0.78
6001 to 7000	0.77	0.78	0.78
7001 to 8000	0.84	0.86	0.86

TABLE 4–A.—PRODUCED WATER CRITICAL DILUTIONS (PERCENT EFFLUENT) FOR WATER DEPTHS OF GREATER THAN 200 METERS

Discharge rate (bbl/day)	Pipe diameter		
	>0" to 5"	>5" to 7"	>7" to 9"
>0 to 500	0.08	0.08	0.08
501 to 1000	0.12	0.12	0.12
1001 to 2000	0.18	0.18	0.18
2001 to 3000	0.22	0.22	0.22
3001 to 4000	0.24	0.25	0.25
4001 to 5000	0.28	0.28	0.28
5001 to 6000	0.30	0.30	0.31
6001 to 7000	0.32	0.32	0.32
7001 to 8000	0.35	0.35	0.35

(16) On pages 55757–55758, on Table 2 "Existing Sources-Effluent Limitations, Prohibitions, and Monitoring Requirements for the Eastern Gulf of Mexico NPDES General Permit" and Table 3 "New Sources-Effluent Limitations, Prohibitions, and Monitoring Requirements for the Eastern Gulf of Mexico NPDES General Permit" are retitled to "Existing Sources" and " New Sources." A correction is made to the Sanitary Flow Measurement reporting requirements on both tables to add a "Recorded/Reported Value" for "Estimated Flow" and to the units used for the "Flow" parameter of the Produced Water Measurement as follows:

Existing Sources

TABLE 2.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS

Discharge	Regulated & monitored discharge parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded/reported value
Drilling Fluids	Oil-based Drilling Fluids	No discharge.			
	Oil-contaminated Drilling Fluids.	No discharge.			
	Drilling Fluids to Which Diesel Oil has been Added.	No discharge			
	Mercury and Cadmium in Barite.	No discharge of drilling fluids if added barite contains Hg in excess of 1.0 mg/kg or Cd in excess of 3.0 mg/kg (dry wt).	Once per new source of barite used.	Flame and flameless AAS.	mg Hg and mg Cd/kg in stock barite.
	Toxicity[a]	30,000 ppm daily minimum.	Once/month	Grab/96-hr LC50 using Mysidopsis bahia; Method at 58 FR 12507.	Minimum LC50 of tests performed and monthly average LC50.
			Once/end of well[b]		
		30,000 ppm monthly average minimum.	Once/month		
	Free Oil	No free oil	Once/day prior to discharge.	Static sheen; Method at 58 FR 12506.	Number of days sheen observed.
	Maximum Discharge Rate.	1,000 barrels/hr	Once/hour	Estimate	Max. hourly rate in bbl/hr.
	Mineral Oil	Mineral oil may be used only as a carrier fluid, lubricity additive, or pill.			
	Drilling Fluids Inventory	Record	Once/well	Inventory	Chemical constituents.
	Volume	Report	Once/month	Estimate	Monthly total in bbl/month.
	Within 1000 Meters of an Area of Biological Concern (ABC).	No discharge			
Drill Cuttings	**Note:** Drill cuttings are subject to the same limitations/prohibitions as drilling fluids except Maximum Discharge Rate.				
	Free Oil	No Free oil	Once/day prior to discharge.	Static sheen; Method at 58 FR 12506.	Number of days sheen observed.
	Volume	Report	Once/month	Estimate	Monthly total in bbl/month.
Produced Water	Oil and Grease	42 mg/l daily maximum and 29 mg/l monthly average.	Once/month[c]	Grab/Gravimetric	Daily max. and monthly avg.
	Toxicity	Acute toxicity (LC50); critical dilution as specified by requirements at Part I.B.3(b).	Once/2 months	Grab/96-hour LC50 using Mysidopsis bahia and inland silverside minnow (Method in EPA/600/4–90/027F).	Minimum LC50 and LPC for both species and full laboratory report.
	Flow (MGD)		Once/month	Estimate	Monthly rate.
	Within 1000 meters of an Area of Biological Concern (ABC).	No Discharge.			
Deck Drainage	Free Oil	No free oil	Once/day when discharging[d].	Visual sheen	Number of days sheen observed.
	Volume (bbl/month)		Once/month	Estimate	Monthly total.
Produced Sand	No Discharge.				
Well Treatment, Completion, and Workover Fluids (includes packer fluids)[e].	Free oil	No free oil	Once/day when discharging.	Static sheen	Number of days sheen observed.
	Oil and Grease	42 mg/l daily maximum and 29 mg/l monthly average.	Once/month	Grab/Gravimetric	Daily max. and monthly avg.
	Priority Pollutants	No priority pollutants		Monitor added materials.	
	Volume (bbl/month)		Once/month	Estimate	Monthly total.
Sanitary Waste (Continuously manned by 10 or more persons)[f].	Solids	No floating solids	Once/day, in daylight	Observation	Number of days solids observed.
	Residential Chlorine	At least (but as close to 1 mg/l.	Once/month	Grab/Hach CN–66–DPD	Concentration.
	Flow (MGD)		Once/month	Estimate	Monthly ave.
Sanitary Waste (Continuously manned by 9 or fewer persons or intermittently by any).	Solids	No Floating solids	Once/day, in daylight	Observation	Number of days solids observed.
Domestic Waste	Solids	No floating solids; no food waste within 12 miles of land; comminuted food waste smaller than 25-mm beyond 12 miles.	Once/day following morning or midday meal at time of maximum expected discharge.	Observation	Number of days solids observed.

TABLE 2.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS—Continued

Discharge	Regulated & monitored discharge parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded/reported value
Miscellaneous Discharges—Desalination Unit; Blowout Preventer Fluid; Uncontaminated Ballast/Bilge Water; Mud, Cuttings, and Cement at the Seafloor; Uncontaminated Seawater; Boiler Blowdown; Source Water and Sand; Uncontaminated Fresh Water; Excess Cement Slurry; Diatomaceous Earth; Filter Media; Condensation water.	Free Oil Treatment Chemicals	No Free Oil Most Stringent of: EPA label registration, maximum manufacturer's recommended dose, or 500 mg/l.	Once/day when discharging.	Visual sheen	Number of days sheen observed.
Miscellaneous discharges of seawater and freshwater to which treatment chemicals have been added.	Free Oil Toxicity	No Free Oil 48-hour ave. minimum NOEC and monthly ave. minimum NOEC.	1/week Rate Dependent	Visual Sheen Grab	Number of days sheen observed. Lowest NOEC observed for either of the two species.

[a] Toxicity test to be conducted using suspended particulate phase (SPP) of a 9:1 seawater: mud dilution. The sample shall be taken beneath the shale shaker, or if there are no returns across the shaker, the sample must be taken from a location that is characteristic of the overall mud system to be discharged.

[b] Sample shall be taken after the final log run is completed and prior to bulk discharge.

[c] The daily maximum concentration may be based on the average of up to four grab sample results in the 24 hour period.

[d] When discharging and facility is manned. Monitoring shall be accomplished during times when observation of a visual sheen on the surface of the receiving water is possible in the vicinity of the discharge.

[e] No discharge of priority pollutants except in trace amounts. Information on the specific chemical composition shall be recorded but not reported unless requested by EPA.

[f] Any facility that properly operates and maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under Section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste. The MSD shall be tested yearly for proper operation and test results maintained at the facility.

New Sources

TABLE 3.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS

Discharge	Regulated & monitored discharge parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded/reported value
Drilling Fluids	Oil-based Drilling Fluids	No discharge			
	Oil-contaminated Drilling Fluids.	No discharge			
	Drilling Fluids to Which Diesel Oil has been Added.	No discharge			
	Mercury and Cadmium in Barite.	No discharge of drilling fluids if added barite contains Hg in excess of 1.0 mg/kg or Cd in excess of 3.0 mg/kg (dry wt).	Once per new source of barite used.	Flame and flameless AAS.	mg Hg and mg Cd/kg in stock barite.
	Toxicity[a]	30,000 ppm daily minimum. 30,000 ppm monthly average minimum.	Once/month Once/end of well[b]. Once/month	Grab/96-hr LC50 using Mysidopsis bahia; Method at 58 FR 12507.	Minimum LC50 of tests performed and monthly average LC50.
	Free Oil	No free oil	Once/day prior to discharge.	Static sheen; Method at 58 FR 12506.	Number of days sheen observed.
	Maximum Discharge Rate.	1,000 barrels/hr	Once/hour	Estimate	Max. hourly rate in bbl/hr.
	Mineral Oil	Mineral oil may be used only as a carrier fluid, lubricity additive, or pill.			
	Drilling Fluids Inventory	Record	Once/well	Inventory	Chemical constituents.
	Volume	Report	Once/month	Estimate	Monthly total in bbl/month.
	Within 1000 Meters an Areas of Biological Concern (ABC).	No discharge.			
Drill Cuttings	(4) **Note:** Drill cuttings are subject to the same limitations/prohibitions as drilling fluids except Maximum Discharge Rate.				
	Free Oil	No free oil	Once/day prior to discharge.	Static sheen; Method at 58 FR 12506.	Number of days sheen observed.
	Volume	Report	Once/month	Estimate	Monthly total in bbl/month.

TABLE 3.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS—Continued

Discharge	Regulated & monitored discharge parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded/reported value
Produced Water	Oil and Grease	42 mg/l daily maximum and 29 mg/l monthly average.	Once/month [c]	Grab/Gravimetric	Daily max. and monthly avg.
	Toxicity	Acute toxicity (LC50); critical dilution as specified by the requirements at Part I.B.3(b).	Once/2 months	Grab/96-hour LC50 using Mysidopsis bahia and inland silverside minnow (Method in EPA/600/4–90/027F).	Minimum LC50 and LPC for both species and full laboratory report.
	Flow (MGD)		Once/month	Estimate	Monthly rate.
	Within 1000 meters of an Area of Biological Concern (ABC).	No discharge.			
Deck Drainage	Free Oil	No free oil	Once/day when discharging [d].	Visual sheen	Number of days sheen observed.
	Volume (bbl/month)		Once/month	Estimate	Monthly total.
Produced Sand	No Discharge.				
Well Treatment, Completion, and Workover Fluids (includes packer fluids) [c].	Free Oil	No free oil	Once/day when discharging.	Static sheen	Number of days sheen observed.
	Oil and Grease	42 mg/l daily maximum and 29 mg/l monthly average.	Once/month	Grab/Gravimetric	Daily max. and monthly avg.
	Priority Pollutants	No priority pollutants		Monitor added materials.	
	Volume (bbl/month)		Once/month	Estimate	Monthly total.
Sanitary Waste (Continuously manned by 10 or more persons) [f].	Solids	No floating solids	Once/day, in daylight	Observation	Number of days solids observed.
	Residential Chlorine	At least (but as close to 1 mg/l.	Once/month	Grab/Hach CN–66–DPD	Concentration.
	Flow (MGD)		Once/month	Estimate	Monthly ave.
Sanitary Waste (Continously manned by 9 or fewer persons or intermittently by any) [f].	Solids	No floating solids	Once/day, in daylight	Observation	Number of days solids observed.
Domestic Waste	Solids	No floating solids; no food waste within 12 miles of land; commminuted food waste smaller than 25-mm beyond 12 miles.	Once/day following morning or midday meal at time of maximum expected discharge.	Observation	Number of days solids observed.
Miscellaneous Discharges—Desalination Unit; Blowout Preventer Fluid; Uncontaminated Ballast/Bilge Water; Mud, Cuttings, and Cement at the Seafloor; Uncontaminated Seawater; Boiler Blowdown; Source Water and Sand; Uncontaminated Freshwater; Excess Cement Slurry; Diatomaceous Earth Filter Media; Condensation water.	Free Oil	No free oil	Once/day when discharging.	Visual sheen	Number of days sheen observed.
	Treatment Chemicals	Most Stringent of: EPA label registration, maximum manufacturer's recommended dose, or 500 mg/l.			
Miscellaneous discharges of seawater and freshwater to which treatment chemicals have been added.	Free Oil	No Free Oil	1/week	Visual Sheen	Number of days sheen observed.
	Toxicity	48-hour ave. minimum NOEC and monthly ave. minimum NOEC.	Rate Dependent	Grab	Lowest NOEC observed for either of the two species.

[a] Toxicity test to be conducted using suspended particulate phase (SPP) of a 9:1 seawater:mud dilution. The sample shall be taken beneath the shale shaker, or if there are no returns across the shaker, the sample must be taken from a location that is characteristic of the overall mud system to be discharged.

[b] Sample shall be taken after the final log run is completed and prior to bulk discharge.

[c] The daily maximum concentration may be based on the average of up to four grab sample results in the 24 hour period.

[d] When discharging and facility is manned. Monitoring shall be accomplished during times when observation of a visual sheen on the surface of the receiving water is possible in the vicinity of the discharge.

[e] No discharge of priority pollutants except in trace amounts. Information on the specific chemical composition shall be recorded but not reported unless requested by EPA.

[f] Any facility that properly operates and maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under Section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste. The MSD shall be tested yearly for proper operation and test results maintained at the facility.

[FR Doc. 01–6175 Filed 3–13–01; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Wednesday,
March 14, 2001

Part III

Department of Commerce

Economic Development Administration

Economic Development Assistance Programs—Availability of Funds Under the Public Works and Economic Development Act of 1965, as Amended and the Trade Act of 1974, as Amended; Notice

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 991215339–1051–02]

RIN—0610–ZA14

Economic Development Assistance Programs—Availability of Funds Under the Public Works and Economic Development Act of 1965, as Amended and the Trade Act of 1974, as Amended

AGENCY: Economic Development Administration (EDA), Department of Commerce (DoC).

ACTION: Notice.

SUMMARY: The Economic Development Administration (EDA) announces the availability of funding, general policies and application procedures for projects that will alleviate conditions of substantial and persistent unemployment and underemployment and low per capita income in economically-distressed areas and regions of the Nation. Funding is also available to help communities adjust to actual or threatened sudden and severe economic dislocations, including major layoffs and plant closings, realignment of defense and energy facilities, natural disasters, trade impacts, and other forms of severe economic distress.

DATES: Unless otherwise noted below, proposals are accepted on a continuous basis and applications are invited and processed as funds become available. Normally, two months are required for a final decision after the receipt of a completed application that meets all EDA requirements.

ADDRESSES: Addresses for EDA's six regional offices and Washington office are provided in Section XIII. Addresses for Economic Development Representatives (EDRs) are listed under each regional office.

Important Note: Effective April 1, 2001, the appendix to the current internet addresses listed throughout this notice will change from "@doc.gov" to *"@eda.doc.gov."* We apologize for any inconvenience.

FOR FURTHER INFORMATION CONTACT: For national technical assistance, research, and trade adjustment assistance projects, please contact the appropriate program office as shown in Section IX and X, respectively. For community and regional economic development projects, contact EDA's Regional Office or the EDR for your area as shown in Section XIII.

SUPPLEMENTARY INFORMATION:

I. Funding Availability

Funding appropriated under Pub. L. 106–553 is available for economic development assistance programs authorized by the Public Works and Economic Development Act of 1965, as amended (PWEDA) and for trade adjustment assistance authorized under Title II, Chapters 3 and 5 of the Trade Act of 1974, as amended. Funds in the amount of $410,972,866 have been appropriated for FY 2001 and shall remain available until expended.

EDA receives and processes requests for funding on an ongoing basis, and has begun processing requests under the FY 2001 appropriation. New requests submitted that require approval during this fiscal year will face substantial competition.

II. General Policies

EDA encourages only those project proposals that will significantly benefit areas experiencing or threatened with substantial economic distress, and targets assistance to communities with the highest economic distress. Distress may exist in a variety of forms, including, but not limited to, high levels of unemployment, low income levels, large concentrations of low-income families, significant declines in per capita income, substantial loss of population because of the lack of employment opportunities, large numbers (or high rates) of business failures, sudden major layoffs or plant closures, military base closures, natural or other major disasters, depletion of natural resources, and/or reduced tax bases.

Potential applicants are responsible for demonstrating to EDA, by providing statistics and other appropriate information, the nature and level of the distress their project efforts are intended to alleviate. In the absence of evidence of high levels of distress, EDA funding is unlikely. EDA provides funding for eligible project activities through direct grants and cooperative agreements. EDA is not authorized to provide grants directly to individuals or to other for-profit entities seeking to start or expand a business. Such requests may be referred to State or local agencies, or to non-profit economic development organizations serving the project area.

EDA funding priorities are intended to implement statutory requirements and to reflect the priorities of the U.S. Department of Commerce. Unless otherwise noted below, the funding priorities listed here will be considered by the Selecting Official (depending upon the program, either the Regional Director or Assistant Secretary) after the project proposal has been evaluated based upon the criteria set forth in EDA regulations at 13 CFR Chapter III, (and 65 FR 71021, November 28, 2000, available on EDA's Web site at *www.eda.gov).* These priorities are roughly equivalent and none is more important than any of the others.

To the degree that one or more of the following funding priorities are included (or packaged together) in the proposal, the ability to obtain EDA assistance may be enhanced:

- Proposals to construct or rehabilitate essential public works and development facilities required to stabilize and diversify employment in economically distressed communities throughout the United States and its territories;
- Proposals to help communities plan and implement economic adjustment strategies in response to actual or threatened sudden and severe economic dislocations (e.g., major layoffs and/or plant closures, trade impacts, defense restructuring, natural disasters).
- Proposals that support sustainable development (i.e., promote the efficient use of resources without compromising the environment for future generations). Examples include the productive reuse of abandoned industrial facilities and the redevelopment of brownfields.
- Proposals that build local capacity for enterprise development in distressed communities (e.g., small business incubators, revolving loan funds, and other programs to support business start-ups, retention and expansion). This includes proposals that involve minority serving institutions and assistance to minority communities and businesses.
- Innovative proposals and partnerships, particularly those involving regional solutions to problems of high unemployment and low per capita income. Such projects will be given priority over proposals that are more limited in scope.

III. Authority

The authority for programs listed below in Parts IV through X is the Public Works and Economic Development Act of 1965, as amended (Pub. L. 89–136, 42 U.S.C. 3121, *et seq*) and as further amended by Pub. L. 105–393. The authority for the program listed in Part XII is Title II Chapters 3 and 5 of the Trade Act of 1974, as amended, (19 U.S.C. 2341–2355; 2391) (Trade Act), as amended by Pub. L. 105–119.

IV. Program: Public Works and Economic Development Assistance

(Catalog of Federal Domestic Assistance: 11.300 Economic Development-Grants for Public Works and Economic Development)

Funds in the amount of $286,069,260 have been appropriated for this program

in FY 2001. The average funding level for a grant last fiscal year was $900,933.

V. Program: Planning—Planning Assistance for Economic Development Districts, Indian Tribes, States, and Other Planning Organizations

(Catalog of Federal Domestic Assistance: 11.302 Economic Development—Support for Planning Organizations)

Funds in the amount of $23,947,200 have been appropriated for the Planning program. In FY 2000 the average Economic Development District planning grant was $55,500; the average Indian planning grant was $46,000; and the average State and other planning organization grant was $68,800. EDA expects the majority of planning funds will be used for support to existing Economic Development District and Indian Tribe grantees. EDA has designated the Planning programs as multi- (up to three) year programs and expects similar levels of funding to be available annually in the second and third years. District, Indian tribes and other applicants for partnership planning grants under EDA's Planning programs may be invited to submit applications for multi-year awards, setting out the proposed budget and project activities for each year, up to three years. If accepted, such applications will simplify the application process in the subsequent year or years, although in each year approval of an award will be dependent upon continued satisfactory performance during the preceding period, the availability of program funds, and will be at EDA's sole discretion. It is EDA's intention to have the multi-year funding cycle coincide with the peer review cycle called for under Section 506 of PWEDA and 13 CFR 318.2. At the discretion of the Regional Office, other applicants, *i.e.*, short-term grantees, for planning assistance may be invited to submit applications for up to a three-year period. Funding in FY 2002 and FY 2003 for other, *i.e.*, short-term applicants, will be contingent upon the availability of funds from Congress, satisfactory performance, and at the sole discretion of EDA.

VI. Program: Technical Assistance-Local Technical Assistance; National Technical Assistance; and University Centers

(Catalog of Federal Domestic Assistance: 11.303 Economic Development-Technical Assistance)

Funds in the amount of $9,079,980 have been appropriated for the Technical Assistance programs of which approximately $1,482,000 is available for the Local Technical Assistance program; $1,098,980 for the National Technical Assistance program; and $6,499,000 for the University Center program. The average funding level in FY 2000 for Local Technical Assistance grants was $29,000; for National Technical Assistance grants, $74,000; and for University Center grants, $91,000.

EDA expects that most University Center funds will be used for support to existing University Centers. EDA has designated the University Center program as a multi- (up to three) year program and expects similar levels of funding to be available in each of the second and third years. Applicants under EDA's University Center Technical Assistance programs may be invited to submit applications for multi-year awards, setting out the proposed budget and project activities for each year, up to three years. If accepted, such applications will simplify the application process in the subsequent year or years, although in each year approval of an award will be dependent upon continued satisfactory performance during the preceding period, the availability of program funds, and will be at EDA's sole discretion. It is EDA's intention to have the multi-year funding cycle coincide with the peer review cycle called for under Section 506 of PWEDA and 13 CFR 318.1.

A separate FR Notice will set forth the specific funding priorities, application process, and time frames for certain National Technical Assistance projects.

VII: Program: Economic Adjustment Assistance

(Catalog of Federal Domestic Assistance: 11.307 Economic Adjustment Assistance)

Funds in the amount of $49,519,816 have been appropriated for this program. Of this amount, $13,500,000 is available for economic adjustment projects located in regions impacted by coal industry downsizing and timber industry issues and $3,019,816 is available for disaster mitigation and recovery.

The $3,019,816 for disaster mitigation and recovery will be available to support selected hazard prone communities (areas subject to natural disasters) including Project Impact communities (communities recognized for taking actions on their own to mitigate) designated by the Federal Emergency Management Agency (FEMA), for capacity building and mitigation activities in areas that are EDA eligible. In addition to the eligibility criteria set forth in EDA's regulation's at 13 CFR Chapter III (65 FR 71021, November 28, 2000) these communities must have experienced natural disasters or be located in natural hazard prone areas.

The average funding level for a regular economic adjustment grant last year was $206,000.

VIII. Program: Defense Economic Conversion

(Catalog of Federal Domestic Assistance: 11.307 Economic Adjustment Assistance; 11.300 Public Works and Economic Development Facilities; 11.302 Support for Planning Organizations; 11.303 Technical Assistance; 11.312 Research and Evaluation and 11.313 Trade Adjustment Assistance)

Funds in the amount of $31,380,810 have been appropriated for to support defense economic conversion under EDA's regular program funding authorities. The average funding level for a defense economic conversion grant last year was $1,119,000.

IX. Program: Research and Evaluation

(Catalog of Federal Domestic Assistance: 11.312 Economic Development—Research and Evaluation Program)

Funds in the amount of $498,900 have been appropriated for this program. The average funding level for a grant last fiscal year was $38,000.

A separate FR Notice will set forth the specific funding priorities, application process, and time frames for certain research and evaluation projects. For further information, contact:

John J. McNamee, Director, Research and National Technical Assistance Division, Economic Development Administration, Room 7019, U.S. Department of Commerce, Washington, DC 20230, Telephone: (202) 482–2309

X. Program: Trade Adjustment Assistance

(Catalog of Federal Domestic Assistance: 11.313 Economic Development—Trade Adjustment Assistance)

Funds in the amount of $10,476,900 have been appropriated for this program. The typical funding level for a grant last year was $875,000. For further information on this program contact:

Anthony J. Meyer, Coordinator, Trade Adjustment and Technical Assistance, Planning and Development Assistance Division, Economic Development Administration, Room 7317, U.S. Department of Commerce, Washington, DC 20230, Telephone: (202) 482–2127

XI. Other Information and Requirements

EDA regulations at 13 CFR Chapter III, (and 65 FR 71022 November 28, 2000) are available on the EDA Web site at *www.doc.gov/eda*. Certain Departmental and other requirements are noted below:

A. Projects are expected to be completed in a timely manner consistent with the nature of the project; and generally, are for a period of 12 to 15 months. For public works and most economic adjustment implementation grants, the maximum period for which assistance will be provided is generally not more than five years from the date of award.

B. Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. This notice involves a collection of information requirement subject to the provisions of the PRA and has been approved by OMB under Control Number 0610–0094. The EDA preapplication (ED–900P), and application (ED–900A), which incorporates the SF–424, are the forms in the EDA application kit, approved under the aforementioned OMB control number.

C. All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

Prospective participants (as defined at 15 CFR part 26, section 105) are subject to "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, Subpart F, "Drug-Free Workplace Requirements (Grants)" and the related section of the certification form prescribed above applies;

Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

D. Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

E. The implementing regulations of the National Environmental Policy Act (NEPA) require EDA to provide public notice of the availability of project specific environmental documents such as environmental impact statements, environmental assessments, findings of no significant impact, records of decision etc., to the affected public as specified in 40 CFR 1506.6(b).

Depending on the project location, environmental information concerning specific projects can be obtained from the Regional Environmental Officer (REO) in the appropriate EDA regional office listed in Section XIII.

F. Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DoC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DoC in accordance with the instructions contained in the award document.

G. No award of Federal funds will be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full;
2. A negotiated repayment schedule is established and at least one payment is received; or
3. Other arrangements satisfactory to DoC are made.

H. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

I. Applicants should be aware that a false statement on the application is grounds for denial of the application or termination of the grant award and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

J. All nonprofit and for-profit applicants are subject to a name check review process (not required for designated Economic Development Districts). Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management, honesty or financial integrity.

K. Applicants are hereby notified that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

L. Applicants seeking an early start, *i.e.*, to begin a project before EDA approval, must obtain a letter from EDA allowing such early start. The letter allowing the early start will be null and void if the project is not subsequently approved for funding by the grants officer. Approval of an early start does not constitute project approval. Applicants should be aware that if they incur any costs prior to an award being made they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DoC to cover preaward costs. Additionally, EDA also requires that compliance with environmental regulations, in accordance with the National Environmental Policy Act (NEPA), be completed before construction begins.

M. If an application is selected for funding, EDA has no obligation to provide any additional future funding in connection with an award. Renewal of an award to increase funding or extend the period of performance is at the sole discretion of EDA.

N. Unless otherwise noted below, eligibility, program objectives, application procedures, selection procedures, evaluation criteria and other requirements for all programs are set forth in EDA regulations at 13 CFR Chapter III, (and 65 FR 71022, November 28, 2000).

O. For public works and economic adjustment grants (CFDA No. 11.300 and 11.307 respectively) EDA reviews area eligibility at the time an application is invited and at the time an application is received. This review is based on the most recent Federal data available for the area where the project will be located or where the substantial direct benefits will be received. If no Federal data are available to determine eligibility, an applicant must submit to EDA the most recent data available for the area through the government of the State in which the area is located, *i.e.*, conducted by or at the direction of the

State government. Other data may be submitted, as appropriate, to substantiate eligibility based on "special need" (see below). Project areas must be eligible on the date of submission of the application. In the case of any application received by EDA more than six months prior to the time of award, EDA will reevaluate the project to determine that the area remains eligible for EDA assistance before making the award. EDA will reject any documentation of eligibility that it determines is inaccurate.

P. This Notice has been determined to be not significant for purposes of Executive Order 12866.

XII. Special Need Criteria

These criteria are published in accordance with 13 CFR 301.2(h). An area is eligible pursuant to "Special Need" (13 CFR 301.2(b)(3)), if the area meets one of the criteria described below:

A. Substantial out-migration or population loss. Applicants seeking eligibility under this criterion will be asked to present appropriate and compelling economic and/or demographic data to demonstrate the special need.

B. Underemployment, that is, employment of workers at less than full time or at less skilled tasks than their training or abilities permit. Applicants seeking eligibility under this criterion will be asked to present appropriate and compelling economic and/or demographic data to demonstrate the special need.

C. Military base closures or realignments, defense contractor reductions-in-force, or Department of Energy defense-related funding reductions.

1. A military base closure refers to a military base that was closed or is scheduled for closure or realignment pursuant to a Base Realignment and Closure Act (BRAC) process or other Defense Department process. The area is eligible from the date of Defense Department recommendation for closure until five years after the actual date of closing of the installation, provided that the closure recommendation is not sooner canceled.

2. A defense contractor reduction-in-force refers to a defense contractor(s) experiencing defense contract cancellations or reductions resulting from official DoD announcements and having aggregate value of at least $10 million per year. Actual dislocations must have occurred within one year of application to EDA and threatened dislocations must be anticipated to occur within two years of application to EDA. Defense contracts that expire in the normal course of business will not be considered in meeting this criterion.

3. A Department of Energy defense-related funding reduction refers to a Department of Energy facility that has experienced or will experience a reduction of employment resulting from its defense mission change. The area is eligible from the date of the Department of Energy announcement of reductions until five years after the actual date of reduced operations at the installation, provided that the reduction is not sooner canceled.

D. Natural or other major disasters or emergencies. An area that has received one of the following disaster declarations is eligible to apply for EDA assistance for a period of 18 months after the date of declaration, unless further extended by the Assistant Secretary:

1. A Presidential Disaster Declaration pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (Pub. L. 93–288), 42 U.S.C. 5121 *et.seq*), or
2. A Federally Declared Disaster pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, (Pub. L. 94–265) as amended by the Sustainable Fisheries Act (Public Law 104–297), or
3. A Federal Declaration pursuant to the Consolidated Farm and Rural Development Act, as amended (Pub. L. 92–419, 96–438, 97–35, 98–258, 99–198, 100–233, 100–387, and 101–624), or
4. A Federally Declared Disaster pursuant to the Small Business Act, as amended (Pub. L. 85–536).

E. Extraordinary depletion of natural resources. EDA presently recognizes the following conditions of extraordinary natural resource depletion:

1. Fisheries
2. Coal
3. Timber

Assistant Secretary modifications to the above listing of conditions of extraordinary natural resource depletion, as they may occur, will be announced in subsequent public notices.

F. Closure or restructuring of industrial firms, essential to area economies. An area that has experienced closure or restructuring of firms resulting in sudden job losses and meeting the following criteria:

1. For areas over 100,000 population, the actual or threatened dislocation is 500 jobs, or 1 percent of the civilian labor force (CLF), whichever is less.

2. For areas up to 100,000 population, the actual or threatened dislocation is 200 jobs, or 1 percent of the CLF, whichever is less.

Actual dislocations must have occurred within one year of application to EDA and threatened dislocations must be anticipated to occur within two years of application.

G. Local negative impacts of foreign trade. An area certified as eligible by the North American Development Bank (NADBank) Program or the Community Adjustment and Investment Program (CAIP) .

H. Other special need. The area is experiencing other special and/or extraordinary economic adjustment need as determined by the Assistant Secretary.

The applicant will be asked to present appropriate economic or demographic statistics to demonstrate a special need.

XIII. EDA Regional Offices and Economic Development Representatives

EDA Regional Offices

William J. Day, Jr., Regional Director, Atlanta Regional Office, 401 West Peachtree Street, NW., Suite 1820, Atlanta, Georgia 30308–3510, Telephone: (404) 730–3002, Fax: (404) 730–3025, Internet Address: wday1@doc.gov

Economic development representatives	States covered
Patterson, Gilbert, 401 West Peachtree Street, NW., Suite 1820, Atlanta, GA 30308, Telephone: (404) 730–3000, Internet Address: gpatterson@doc.gov.	Mississippi Georgia
Hunter, Bobby D., 771 Corporate Drive, Suite 200, Lexington, KY 40503–5477, Telephone: (859) 224–7426, Internet Address: bhunter@doc.gov.	Kentucky North Carolina (Western)
Dixon, Patricia M., U.S. Department of Commerce-EDA, P.O. Box 1707, Lugoff, SC 29078, Telephone: (803) 408–2513, Internet Address: pdixon@doc.gov.	South Carolina North Carolina (Eastern)
Dennis, Bobby, 401 West Peachtree Street, NW., Suite 1820, Atlanta, GA 30308–3510, Telephone: (404) 730–3020, Internet Address: bdennis@doc.gov.	Alabama

Economic development representatives	States covered
Taylor, Willie C., 401 West Peachtree Street, NW., Suite 1820, Atlanta, GA 30308–3510, Telephone: (404) 730–3032, Internet Address: wtaylor5@doc.gov.	Florida
Reed, Tonia, 401 West Peachtree Street, NW., Suite 1820, Atlanta, Georgia 30308–3510, Telephone: (404) 730–3026, Internet Address: *treed@doc.gov*.	Tennessee

Pedro R. Garza, Regional Director, Austin Regional Office, 327 Congress Avenue, Suite 200, Austin, Texas 78701–4037, Telephone: (512) 381–8144, Fax: (512) 381–8177, Internet Address: pgarza1@doc.gov.

Area directors	States covered
Jacob, Larry, Austin Regional Office, 327 Congress Avenue, Suite 200, Austin, TX 78701–4037, Telephone: (512) 381–8157, Internet Address: *ljacob@doc.gov*.	New Mexico Oklahoma Texas (Northwest)
Frerking, Sharon T., Austin Regional Office, 327 Congress Avenue, Suite 200, Austin, Texas 78701–4037, Telephone: (512) 381–8154, Internet Address: *sfrerking@doc.gov*.	Arkansas Louisiana Texas (Southeast)
Spearman, Sam, 700 West Capital, Room 2509, Little Rock, AR 72201, Telephone: (501) 324–5637, Internet Address: *sspearma@doc.gov* Davidson-Ehlers, Pamela, 501 Magazine Street, Room 1025, New Orleans, LA 70130, Telephone: (504) 589–4179, Internet Address: *pdavidso@doc.gov*	

C. Robert Sawyer, Regional Director, Chicago Regional Office, 111 North Canal Street, Suite 855, Chicago, IL 60606, Telephone: (312) 353–7706, Fax: (312) 353–8575, Internet Address: rsawyer@doc.gov

Economic development representatives	States covered
Arnold, John B. III, 104 Federal Building, 515 West First Street, Duluth, MN 55802, Telephone: (1–888) 865–5719 (Illinois), (218) 720–5326 (Minnesota), Internet Address: jarnold@doc.gov.	Illinois Minnesota
Hickey, Robert F., Federal Building, Room 740, 200 North High Street, Columbus, Ohio 43215, Telephone: (1–800) 686–2603 (Indiana), (614) 469–7314 (Ohio), Internet Address: rhickey@doc.gov.	Ohio Indiana
Peck, John E., P.O. Box 517, Acme, Michigan 49610–0517, Telephone: (231) 938–1712 (Michigan), (1–888) 249–7597 (Wisconsin) Internet Address: jpeck@doc.gov.	Michigan Wisconsin

Anthony J. Preite, Regional Director, Denver Regional Office, 1244 Speer Boulevard, Room 670, Denver, Colorado 80204, Telephone: (303) 844–4715, Fax: (303) 844–3968, Internet Address:apreite@doc.gov.

Economic development representatives	States covered
Zender, John P., 1244 Speer Boulevard, Room 632, Denver, CO 80204, Telephone: (303) 844–4902, Internet Address: jzender@doc.gov.	Colorado Kansas
Cecil, Robert, Federal Building, Room 823, 210 Walnut Street, Des Moines, IA 50309, Telephone: (515) 284–4746, Internet Address: bcecil@doc.gov.	Iowa Nebraska
Hildebrandt, Paul, Federal Building, Room B–2, 608 East Cherry Street, Columbia, MO 65201, Telephone: (573) 442–8084, Internet Address: phildeb1@doc.gov.	Missouri
Rogers, John C., Federal Building, Room 196, 301 South Park Ave., Drawer 10074, Helena, MT 59626, Telephone: (406) 441–1175, Internet Address: jrogers6@doc.gov.	
Jungberg, Cip, Post Office/Courthouse, 102 4th Ave., Room 216, P.O. Box 190, Aberdeen, South Dakota 57401, Telephone: (605) 226–7315, Internet Address: cjungberg@doc.gov.	South Dakota North Dakota
Turner, Robert, Chief, Operations Management, 1244 Speer Boulevard, Room 670, Denver, Colorado 80204, Telephone: (303) 844–4474, Internet Address: rturner@doc.gov.	Utah

Paul M. Raetsch, Regional Director, Philadelphia Regional Office, Curtis Center, Independence Square West, Suite 140 South, Philadelphia, PA 19106, Telephone: (215) 597–4603, Fax: (215) 597–6669, Internet Address: PRaetsch@doc.gov.

Economic development representatives	States covered
GOOD, William A., Acting, Philadelphia Regional Office, The Curtis Center-Suite 140 South, Independence Square West, Philadelphia, PA 19106, Telephone: (215) 597–0405, Internet Address: wgood@doc.gov.	Delaware District of Columbia
AUBE, Michael W., USDOC/EDA, Federal Building, 202 Harlow Street, Suite 232, Bangor, ME 04401–4656	Connecticut Maine Rhode Island
CRUZ, Ernesto L., IBM Building, Room 602, 654 Munoz Rivera Avenue, Hato Rey, PR 00918–1738, Telephone: (787) 766–5187, Internet Address: ecruz@doc.gov.	Puerto Rico Virgin Islands
NOYES, Neal E., Room 474, 400 North 8th Street, P.O. Box 10229, Richmond, VA 23240–1001, Telephone: (804) 771–2061, Internet Address: nnoyes@doc.gov.	Virginia Maryland
DAVIS, R. Byron, 405 Capital Street, Room 411, Charleston, WV 25301–1727, Telephone: (304) 347–5252, Internet Address: bdavis3@doc.gov.	West Virginia

A. Leonard Smith, Regional Director, Seattle Regional Office, Jackson Federal Building, Room 1856, 915 Second Avenue, Seattle, Washington 98174, Telephone: (206) 220–7660, Fax: (206) 220–7669, Internet Address: LSmith7@doc.gov.

Economic development representatives	States covered
Richert, Bernhard E. Jr., 550 West 7th Avenue, Suite 1780, Anchorage, AK 99501–7594, Telephone: (907) 271–2272, Internet Address: brichert@doc.gov.	Alaska
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For general information on EDA contact the appropriate Regional Office listed above or EDA's Office of Congressional Liaison and Program Research and Evaluation: Economic Development Administration, Room 7814A, U.S. Department of Commerce, Washington, DC 20230, Telephone: (202) 482–2309, EDA Web site *www.doc.gov/eda*.

Dated: March 8, 2001.

Mary C. Pleffner,

Acting Assistant Secretary for Economic Development.

[FR Doc. 01–6247 Filed 3–13–01; 8:45 am]

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Federal Register

Wednesday,
March 14, 2001

Part IV

The President

Federal Register
Vol. 66, No. 50
Wednesday, March 14, 2001

Presidential Documents

Title 3—

The President

Executive Order 13205 of March 9, 2001

Establishing an Emergency Board To Investigate a Dispute Between Northwest Airlines, Inc., and Its Employees Represented by the Aircraft Mechanics Fraternal Association

A dispute exists between Northwest Airlines, Inc., and its employees represented by the Aircraft Mechanics Fraternal Association.

The dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188) (the "Act").

In the judgment of the National Mediation Board, this dispute threatens substantially to interrupt interstate commerce to a degree that would deprive sections of the country of essential transportation service.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States, including sections 10 and 201 of the Act (45 U.S.C. 160 and 181), it is hereby ordered as follows:

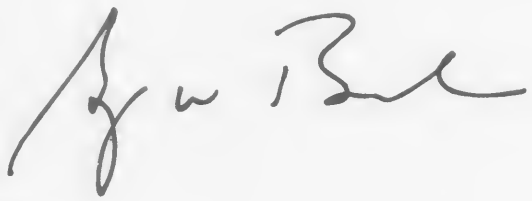
Section 1. *Establishment of Emergency Board ("Board").* There is established, effective March 12, 2001, a Board of three members to be appointed by the President to investigate this dispute. No member shall be pecuniarily or otherwise interested in any organization of airline employees or any air carrier. The Board shall perform its functions subject to the availability of funds.

Sec. 2. *Report.* The Board shall report to the President with respect to this dispute within 30 days of its creation.

Sec. 3. *Maintaining Conditions.* As provided by section 10 of the Act, from the date of the creation of the Board and for 30 days after the Board has submitted its report to the President, no change in the conditions out of which the dispute arose shall be made by the parties to the controversy, except by agreement of the parties.

Sec. 4. *Record Maintenance.* The records and files of the Board are records of the Office of the President and upon the Board's termination shall be maintained in the physical custody of the National Mediation Board.

Sec. 5. *Expiration.* The Board shall terminate upon the submission of the report provided for in sections 2 and 3 of this order.



THE WHITE HOUSE,
March 9, 2001.

[FR Doc. 01–6558
Filed 3–13–01; 11:57 am]
Billing code 3195–01–P

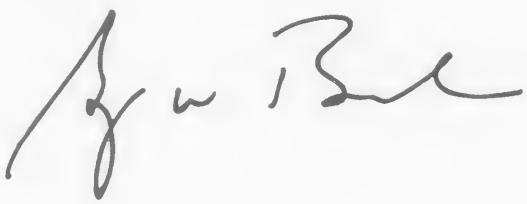
Presidential Documents

Notice of March 13, 2001

Continuation of Iran Emergency

On March 15, 1995, by Executive Order 12957, the President declared a national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Government of Iran, including its support for international terrorism, efforts to undermine the Middle East peace process, and acquisition of weapons of mass destruction and the means to deliver them. On May 6, 1995, the President issued Executive Order 12959 imposing more comprehensive sanctions to further respond to this threat, and on August 19, 1997, the President issued Executive Order 13059 consolidating and clarifying the previous orders. The last notice of continuation was published in the **Federal Register** on March 14, 2000.

Because the actions and policies of the Government of Iran continue to threaten the national security, foreign policy, and economy of the United States, the national emergency declared on March 15, 1995, must continue in effect beyond March 15, 2001. 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 Iran. Because the emergency declared by Executive Order 12957 constitutes an emergency separate from that declared on November 14, 1979, by Executive Order 12170, this renewal is distinct from the emergency renewal of November 2000. This notice shall be published in the **Federal Register** and transmitted to the Congress.



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March 13, 2001.

[FR Doc. 01–6559
Filed 3–13–01; 11:57 am]
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H.J. Res. 7/P.L. 107–1

Recognizing the 90th birthday of Ronald Reagan. (Feb. 15, 2001; 115 Stat. 3)

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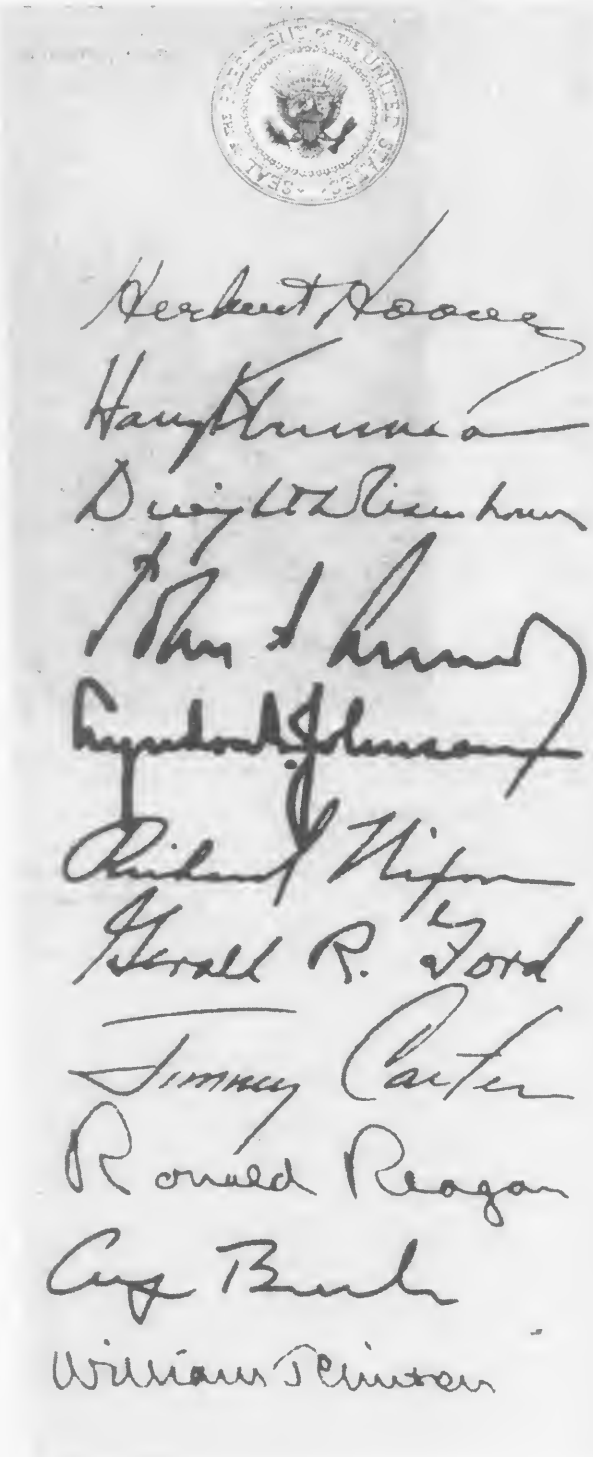

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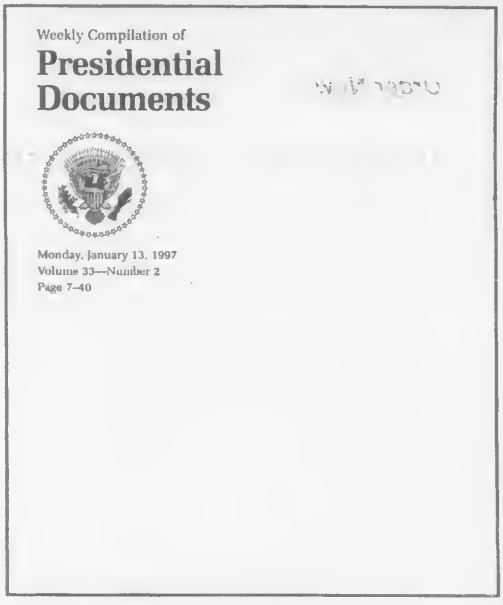

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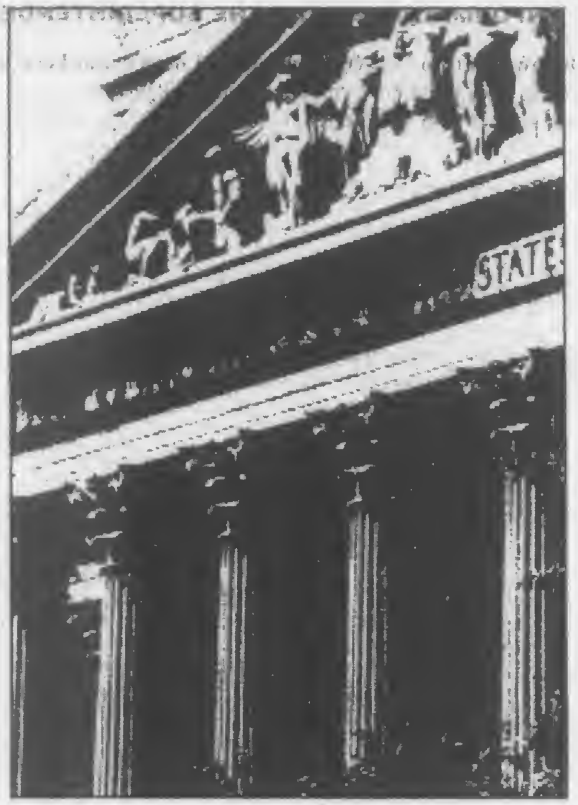

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