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Contents

Federal Register

Vol. 66, No. 103

Tuesday, May 29, 2001

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

12 CFR
201.....29009

13 CFR
119.....29010

14 CFR
71 (4 documents) 29017, 29018, 29019

Proposed Rules:
71 (3 documents) 29056, 29057, 29058

21 CFR
520.....29019
558.....29020

Proposed Rules:
333.....29059

27 CFR
70.....29021

39 CFR
111.....29031

40 CFR

Proposed Rules:
52.....29064

41 CFR

Proposed Rules:
101-9.....29067
102-192.....29067

47 CFR
74.....29040

50 CFR
224.....29046
229.....29213

Proposed Rules:
15.....29072
660.....29074

Rules and Regulations

Federal Register
Vol. 66, No. 103
Tuesday, May 29, 2001

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change in Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A on Extensions of Credit by Federal Reserve Banks to reflect its approval of a decrease in the basic discount rate at each Federal Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

DATES: The amendments to part 201 (Regulation A) were effective May 15, 2001. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Johnson, Secretary of the Board, at (202) 452–3259, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The "basic discount rate" is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks' discretion, for extended credit for up to 30 days. In decreasing the basic discount rate from 4.0 percent to 3.5 percent, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below. The 50-basis-point decrease in the discount rate was associated with a similar decrease in the federal funds rate approved by the Federal Open Market Committee (FOMC) and announced at the same time.

In a joint press release announcing these actions, the FOMC and the Board of Governors noted that a significant reduction in excess inventories seems well advanced. Consumption and housing expenditures have held up reasonably well, though activity in these areas has flattened recently.

Investment in capital equipment, however, has continued to decline. The erosion in current and prospective profitability, in combination with considerable uncertainty about the business outlook, seems likely to hold down capital spending going forward. This potential restraint, together with the possible effects of earlier reductions in equity wealth on consumption and the risk of slower growth abroad, continues to weigh on the economy.

With pressures on labor and product markets easing, inflation is expected to remain contained. Although measured productivity growth stalled in the first quarter, the impressive underlying rate of increase that developed in recent years appears to be largely intact, supporting longer-term prospects.

The FOMC continues to believe that against the background of its long-run goals of price stability and sustainable economic growth and of the information currently available, the risks are weighted mainly toward conditions that may generate economic weakness in the foreseeable future.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for good cause finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in fostering price stability and sustainable economic growth.

The provisions of 5 U.S.C. 553(d) that prescribe 30 days prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate is contrary to the public interest.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR part 201 is amended as set forth below:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for 12 CFR part 201 continues to read as follows:

Authority: 12 U.S.C. 343 *et seq.*, 347a, 347b, 347c, 347d, 348 *et seq.*, 357, 374, 374a and 461.

2. Section 201.51 is revised to read as follows:

§ 201.51 Adjustment credit for depository institutions.

The rates for adjustment credit provided to depository institutions under § 201.3(a) are:

Federal Reserve Bank	Rate	Effective
Boston	3.5	May 16, 2001.
New York	3.5	May 15, 2001.
Philadelphia	3.5	May 17, 2001.
Cleveland	3.5	May 17, 2001.
Richmond	3.5	May 15, 2001.
Atlanta	3.5	May 16, 2001.
Chicago	3.5	May 15, 2001.
St. Louis	3.5	May 16, 2001.
Minneapolis	3.5	May 17, 2001.
Kansas City	3.5	May 16, 2001.
Dallas	3.5	May 16, 2001.
San Francisco	3.5	May 15, 2001.

By order of the Board of Governors of the Federal Reserve System, May 22, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–13373 Filed 5–25–01; 8:45 am]

BILLING CODE 6210–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 119

RIN 3245–AE52

PRIME Act Grants

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This final rule adds new regulations to set up the Program for Investment in Microentrepreneurs Act ("PRIME" or "the Act"), created by Title VII of the Gramm-Leach-Bliley Act, enacted November 12, 1999. This rule sets forth the Act's grant requirements for qualified Microenterprise Development Organizations ("MDOs") to: train and provide technical assistance to disadvantaged microentrepreneurs; build MDO's capacity to give disadvantaged microentrepreneurs such training and technical assistance; research and develop best practices for training and technical assistance programs for disadvantaged microentrepreneurs, and perform such other activities as the Administrator or designee determines are consistent with the Act.

PRIME grants will enable MDOs to reach more disadvantaged microentrepreneurs with training and technical assistance, which will make a difference in their ability to start, grow, and sustain microenterprises in economically distressed, high unemployment areas. SBA will award a minimum of 75 percent of available funds to MDOs to use for training and technical assistance to disadvantaged microentrepreneurs. At a minimum, another 15 percent will be used to build MDOs' capacity to give more training and technical assistance. SBA will use the remaining funds to make grants for research and development on best practices or other purposes to improve MDOs' services to PRIME's ultimate beneficiaries—disadvantaged microentrepreneurs.

DATES: This rule is effective on June 28, 2001.

FOR FURTHER INFORMATION CONTACT: Jody Raskind, Chief, Microenterprise Development Branch, 202–205–6497.

SUPPLEMENTARY INFORMATION:

Introduction

Congress recognized that many disadvantaged microentrepreneurs lack sufficient training and education to gain access to capital and to conduct other activities necessary to establish, maintain, and expand their businesses. It enacted the Program for Investment in Microentrepreneurs Act ("PRIME" or "the Act") to augment training and technical assistance under the Small Business Act and other legislation. PRIME grants to qualified Microenterprise Development Organizations ("MDOs") will help meet training and technical assistance needs for disadvantaged microentrepreneurs, thereby encouraging entrepreneurship and capital formation at the community level.

The congressional mandate to provide cognitive support to the target market through the Act is recognition that many low income and very low-income entrepreneurs need training and technical assistance to start, operate, strengthen, or expand their businesses. In order to achieve measurable success, technical assistance providers must be accessible, consistent and committed to the entrepreneur's progress over extended periods of time. The competency and capacity of these providers must also be measured. Research into the outcomes of support, its long-term effect, and how best to continue assistance is essential in determining the value of support over the long run.

The U.S. Department of Commerce's Characteristics of Business Ownership shows that in 1987, approximately 17 percent (2.3 million) of businesses in the United States were operated by low-income and very low-income microentrepreneurs. Since then a variety of economic developments, including corporate downsizing, declining availability of lower skilled manufacturing jobs and expanded opportunities in the technology field, have combined to make microenterprise an increasingly more viable option in the U.S. economy.

The Aspen Institute estimated that during 1997 microlenders nationwide provided business assistance to 172,000 microentrepreneurs, a mere fraction of low- and very-low income individuals involved in microenterprise. The Institute further estimated that of that number, about 57,000 actively pursued and benefited from sustained business-based training and technical assistance. Of those, approximately 6,000 received loans.

One of the major constraints is the cost of providing this training and technical assistance. Current private sector sources simply are not meeting the need. The Act, therefore, focuses on expanding the cultivation, support and motivation of these low- and very-low income microentrepreneurs. It will also help build the capacity of the microenterprise industry in order to deliver vital services to a much greater segment of the 2.3 million or more low income and very low income microentrepreneurs. One of the goals of the PRIME program is to be a resource for MDOs as they grow and develop and ultimately become self-sustaining.

The Act authorizes the U.S. Small Business Administration ("SBA") to make grants to "qualified organizations" to fund training and technical assistance for disadvantaged microentrepreneurs. It also authorizes SBA to make grants to increase the training and technical assistance capacities of MDOs. Further, it authorizes funding for grants for research and development, and other undertakings deemed by the Administrator or designee to be consistent with the purposes of the Act. The PRIME program requires that grants made by SBA be matched by grantees from non-Federal sources. These regulations set up four categories of Technical Assistance Grants targeted to these purposes.

Grants made either for the purpose of providing technical assistance to disadvantaged microentrepreneurs or for capacity building purposes initially will be awarded, on a competitive basis, in amounts not less than $50,000. Such grants may be renewable, annually, for up to four additional years. Renewal of an existing grant will take place at the discretion of the SBA and will be based on the availability of funds and the individual grantee's performance in terms of goals met, milestones achieved, and demonstrated results.

Grants for research and development will also be awarded on a competitive basis, though not subject to a minimum award. These grants may also be renewed based on the appropriateness of extended funding periods, availability of funds, and appropriation and performance.

PRIME will be implemented with a clear focus on the applicants' abilities to meet the purposes of the Act. Accountability and outcomes will be an ongoing consideration during the grant period. Applicants for funding for technical assistance to disadvantaged microentrepreneurs will be evaluated based on such items as technical capabilities; market penetration potential; ability to meet stated goals; historical performance; key personnel; resource management; community

partnering and collaboration with state and local entities; accountability for outcomes; program sustainability; and replicability of program design. Applicants for funding as capacity builders will be similarly evaluated. Continued performance of these two groups will be measured in terms of such items as number of clients served; range and quality of service; number of businesses started, stabilized, expanded, and/or funded; number of jobs created; business survival rates; capital formation; and non-business outcomes such as wage employment.

On October 10, 2000, SBA published the proposed rule for the PRIME program in the **Federal Register** (65 FR 60256). SBA received 13 timely comments in response to the proposed rule. What follows is a summary of the comments received and the actions taken in response to those comments.

Review of Comments

SBA received 3 comments on § 119.2, which sets forth definitions found in the Act and further defines terms not included in the Act. Two of the commenters expressed an interest in having the definition of "training and technical assistance" clarified to convey that the examples of training and technical assistance which SBA included in the proposed rule are not conclusive. SBA adopted this comment by adding the language, "such as, but not limited to," before the specific examples. One of the above mentioned commenters also requested that the definition of training and technical assistance include, "services which may address additional barriers to success that low and very low income entrepreneurs may face." Although SBA can appreciate what this commenter is trying to accomplish with the recommended language, SBA has decided not to include such language until we can more clearly identify existing barriers. The PRIME program is a new initiative and the legislation enacting the program specifically defines "training and technical assistance." As the program develops, and as we are able to more clearly identify barriers, SBA will consider expanding the definition of training and technical assistance in line with the statutory purpose of the PRIME program.

The third commenter on § 119.2 asked that the definition of "capacity building" be expanded to include purposes beyond an MDO's ability to provide training and technical assistance to disadvantaged microentrepreneurs. As with the definition of training and technical assistance, the definition of capacity building is clearly set forth in the Act enacting the PRIME program. SBA believes that the definition of capacity building, as it appears in the Act, accurately portrays the intent of Congress and the purposes of the PRIME program. Therefore, SBA does not feel that it would be appropriate to expand the purposes beyond those articulated by Congress. In addition, SBA deleted the definition of the term "emerging microenterprise development organization or program" based upon comments received on § 119.12, which are discussed in that part of this Supplementary Information.

SBA received 3 comments in response to proposed § 119.3, which lists organizations eligible to apply for PRIME grants. One commenter asked us to specify that Internal Revenue Service (IRS) classified organizations such as 501(c)(3)s are eligible to apply for PRIME grants. SBA does not feel this change is necessary. When addressing eligible organization within the rule for the PRIME program, SBA has not specified any IRS paragraph citations (e.g., 501, 509); rather, SBA simply articulates the statutory requirement that the eligible organizations be non-profits. Organizations such as 501(c)(3)s would satisfy the non-profit language used in the rule.

A second commenter on § 119.3 asked SBA to include specific language listing the local governments or agencies of local governments eligible for PRIME grants. SBA did not adopt this change because the Act authorizing PRIME specifically states that only non-profit entities are eligible organizations. The Act does allow for non-profit agencies to work, "in conjunction with" local governments or agencies of local governments however, eligible organizations themselves consist only of non-profits.

The final comment on § 119.3 asked for clarification that faith based organizations are eligible to apply for grant programs. SBA did not include any explicit language to that effect because there is no explicit statutory language disqualifying faith based organizations from participating in the program. SBA will need to review each faith based organization application to determine, on a case-by-case basis, whether there are any constitutional First Amendment issues presented.

SBA received four comments on § 119.4, which lists the uses for PRIME grants permitted by the Act. One commenter suggested that we revise the rule text to allow capacity building grants to go directly to MDOs for building their *own* capacity. SBA did not adopt this change because it is unnecessary. The PRIME program already allows for grants for the purposes recommended by the commenter under the heading of "Technical Assistance Grants." "Capacity Building Grants," on the other hand, by statute, are awarded to MDOs for the benefit of building the capacity of *other* MDOs.

The remaining commenters on this section also asked SBA to make the definition of "training and technical assistance" more flexible. SBA fulfilled this request by amending the definition of training and technical assistance in § 119.2 to include the language, "such as, but not limited to" before the list of examples.

SBA received nine comments on § 119.5, which lays out the Act's parameters for allocating and apportioning PRIME grant awards. All of the commenters expressed concern that this section appears to require that at least 50 percent of each grantee's total award amount must serve "very low income" persons. SBA has amended the language of this section to clarify that because the PRIME program seeks to reach as many disadvantaged entrepreneurs as possible, the focus of § 119.5 is on the number and the quality of the grants reaching the disadvantaged entrepreneurs, not the amount of the grants. The section conveys that at least 50 percent of the total number of grants awarded under the PRIME program, as a whole, must serve "very low income" persons.

SBA did not receive any comments in response to proposed § 119.6, which stated that awards for training and technical assistance will not be less than $50,000. However, SBA amended this section to conform with the change made to § 119.7 (How long and in what amounts will grant funding be available to a single grantee?)(See below). In this final rule, the minimum award for training and technical assistance and capacity building grants will be not less than $50,000 during the initial year of the grant.

SBA received a total of 9 comments on § 119.7, which explains for how long and in what amounts grant funding will be available to a single grantee. All of the commenters were opposed to declining award amounts in the option years. SBA understands the commenters concerns however, we have maintained a "step down" approach to the award amounts for the option years. SBA believes that this step down approach will allow SBA to accommodate new grantees every year while providing existing grantees with enough funding to pursue their plans. Therefore, the

section provides that for Technical Assistance and Capacity Building Grants, after the initial grant, grant awards for following option years will be in amounts not to exceed 67 percent of the initial grant amount. SBA did not treat Research and Development Grants and Discretionary Grants similarly. SBA believes that these grants, by their very nature, require more flexibility. Often projects, such as research projects, are more unpredictable in terms of when milestones will be achieved and what direction the research will take upon attainment of each milestone. Therefore, for these types of grants, after making the initial grant, option year grant awards will be approved at SBA's discretion.

In addition, to address the concerns raised by these comments, SBA made two other changes to § 119.7. First, SBA modified the language of subsection (a) to clarify the discussion of option year funding. Secondly, SBA added a new subsection (d) to clarify that grantees in the final year of a project may request a one-time extension for up to 12 months under OMB Circular A–110, paragraph .25(e)(2). The purpose of this revision is to place grantees on notice that extensions may be requested under the PRIME Program.

SBA also made one other amendment to § 119.7 in an effort to clarify the language of the section. We have amended the heading to read, "How long and in what amounts will grant funding be available to a single grantee?" (Emphasis added). This heading more accurately describes the content of the text, which follows the heading.

SBA received only one comment on § 119.8, which sets forth the matching requirements for grantees. The commenter was concerned that a request for a waiver from the matching requirements would count against them. In an effort to confirm that this is not the case, SBA amended some of the language within paragraph (c) and (d) and added new paragraphs (e) and (f). SBA's intent within this section is to convey that a request for a waiver should be made sincerely and only when absolutely necessary. Obviously, SBA wants to avoid issuing unnecessary waivers in order to ensure that program funds will be utilized in the most far-reaching manner possible. SBA will first evaluate applications based on merit alone and will rank order these applications accordingly. Once SBA completes this ranking, we will review the applications for waiver requests and will grant waiver requests in the same rank order until waiver request authority has been expended. If, when following the rank order, SBA comes to an application that requests a waiver but all waiver authority has already been granted, SBA has no option but to deny the waiver request and will therefore be forced to similarly deny the otherwise meritorious grant proposal. If such a situation occurs, such an applicant will not be able to suddenly turn around, come back to SBA stating that they have the required match amount and hope to receive a grant award. Accordingly, as we have stated, waiver requests should be made only when necessary.

SBA received two comments in response to § 119.10, which restates the Act's requirement that SBA not prefer SBA Microloan Program participants under § 7(m) of the Small Business Act over non-participants or former participants in that program. Both comments supported this position therefore, the section remains as it was proposed.

SBA received three comments in response to § 119.11, which sets forth the information that will be requested in an application for funding under PRIME. All three comments suggested that the application is too long. These comments do not affect the regulation text of this section however, SBA wants to remind potential applicants that the application contains both instructions and requests for information. Not every page of the application contains a request for information. Of course, as the PRIME program progresses, SBA will look for opportunities to streamline the application itself.

SBA received six comments on § 119.12, which sets forth the criteria that SBA will use to evaluate grant applications. All six commenters indicated that SBA did not give enough weight to the past experience of the qualified organizations delivering technical assistance to disadvantaged entrepreneurs. After receiving these comments (which came from almost 50 percent of the total number of commenters), SBA decided to increase the weight given to past experience. Since issuing the proposed rule, and upon review of comments, SBA more firmly believes that an organization's ability to accomplish the objectives of the PRIME program may best be demonstrated by its prior experience and success in serving disadvantaged entrepreneurs. Also, based on these comments, SBA decided to eliminate the provision in proposed § 119.12(a)(1). The proposed provision would require two separate competitions for Technical Assistance Grants. One competition for microenterprise development organizations that had been in operation for four years or less and one competition for microenterprise development organizations that had been in operation for more than four years. SBA believes that the adjustments to the past experience weighting makes two competitions unnecessary.

SBA received a total of 5 comments on §§ 119.16, 119.17, both of which address the reporting, record keeping, and related requirements of the PRIME program. All of the commenters were opposed to the quarterly reporting requirement and two of the commenters felt that the information being requested was unrealistic or excessive. In drafting these sections, SBA had to take into account the requirements found within § 115 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act) (12 U.S.C. 4714) as required by the Act authorizing PRIME and the applicable circulars issued by the Office and Management and Budget (OMB). These directives, along with SBA's experience and the commenters' concerns, lead us to amend this section to allow for, in the case of Technical Assistance and Capacity Building Grants, quarterly reporting during the first two years. Thereafter, the grantees may request that SBA reduce the frequency of reports. For recipients of Research and Development Grants, reports will be required in accordance with agreed upon milestones. For Discretionary Grants, reports will be required as appropriate for the project, or on a schedule similar to that provided for Technical Assistance and Capacity Building Grant recipients.

Compliance With Executive Order 12866, 12988 and 13132, the Regulatory Flexibility Act, 5 U.S.C. 601–12, and the Paperwork Reduction Act, 44 U.S.C. Ch. 35

The Office of Management and Budget ("OMB") reviewed this rule as a "significant" regulatory action under Executive Order 12866.

SBA has determined that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. Congress has limited the funding level for this program therefore, it can only affect a limited number of small businesses through making grants to specifically defined organizations.

The Office of Management and Budget (OMB) has approved the information collection requirements contained in part 119 under the provisions of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, and has assigned OMB control number 3245–0329. Information

collected includes application information submitted by applicants in response to the Program Announcements, as provided in §§ 119.9 and 119.11, and reporting, recordkeeping and related requirements related to a grant award, as provided in § 119.16. The required information will be used to evaluate applicants for PRIME grant awards and to monitor the financial and performance aspects of the awards once they are made. SBA estimates that it will take 80 hours to respond to the program announcements and to perform quarterly reporting and recordkeeping requirements. SBA estimates 500 applicants, resulting in an annual hour burden of 40,000 hours for the PRIME Program. SBA received only two comments on the proposed application packages suggesting that the applications were too long. SBA responded to these comments earlier in the preamble to this rule when addressing the comments made on § 119.11. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number associated with this collection information is 3245–0329.

For purposes of Executive Order 13132, SBA has determined that this final rule has no federalism implications because the legislation authorizing it provides grants to private, non-profit organizations working directly with disadvantaged entrepreneurs.

For purposes of Executive Order 12988, SBA certifies that this final rule is drafted, to the extent practicable, in accordance with the standards set forth in section 3 of that Order.

List of Subjects in 13 CFR Part 119

Grant programs—Business, Small business.

For the reasons stated in the preamble, SBA adds 13 CFR part 119, as follows:

PART 119—PROGRAM FOR INVESTMENT IN MICROENTREPRENEURS ("PRIME" OR "THE ACT")

Sec.

Authority: 15 U.S.C. 634(b)(6) and Pub. L. 106–102.

§ 119.1 What is the Program for Investment in Microentrepreneurs ("PRIME" or "the Act")?

PRIME authorizes SBA to make grants to "qualified organizations" to fund training and technical assistance for disadvantaged entrepreneurs, build these organizations' own capacity to give training and technical assistance, fund research and development of "best practices" in microenterprise development and technical assistance programs for disadvantaged microentrepreneurs, and to fund other undertakings the Administrator or designee deems consistent with these purposes.

§ 119.2 Definitions.

For the purposes of this part, the following definitions apply:

Capacity Building Grant means a grant made under the Act identified under § 119.4(b).

Capacity building services means services provided to an organization or program that is currently, or is developing as, a microenterprise development organization or program, for the purpose of enhancing its ability to provide training and technical assistance to disadvantaged microentrepreneurs.

Collaborative means two or more nonprofit entities that agree to act jointly as a qualified organization under this part.

Developer means a person interested in starting or acquiring a microenterprise.

Disadvantaged entrepreneur, or *disadvantaged microentrepreneur*, means the owner, majority owner, or developer, of a microenterprise who is also—

(1) A low-income person;

(2) A very low-income person; or

(3) An entrepreneur who lacks adequate access to capital or other resources essential for business success, or is economically disadvantaged, as defined in this part.

Discretionary Grant means a grant made under the Act identified under § 119.4(d).

Economically disadvantaged entrepreneur, or *economically disadvantaged* microentrepreneur, means an owner, majority owner, or developer of a microenterprise whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the industry such that his or her ownership of a small business would help to qualify the small business for assistance under section 7(j) or section 8(a) programs of the Small Business Act.

Grantee means a recipient of a grant under the Act.

Group has the same meaning as "collaborative" as defined in this section.

Indian tribe means any Indian tribe, band, pueblo, nation, or other organized group or community, including any Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services the United States provides to Indians because of their status as Indians.

Indian tribe jurisdiction means Indian country, as defined in 18 U.S.C. 1151, and any other lands, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any tribe or individual subject to a restriction by the United States against alienation, and any land held by Alaska Native groups, regional corporations, and village corporations, as defined in or established under the Alaska Native Claims Settlement Act, public domain Indian allotments, and former Indian reservations in the State of Oklahoma.

Intermediary means a private, nonprofit entity serving or seeking to

serve microenterprise development organizations or programs identified under § 119.3.

Large microenterprise development organization or program means a microenterprise development organization or program with 10 or more full time employees or equivalents, including its executive director, as of the date it files its application with SBA for a PRIME grant.

Local community means an identifiable area and population constituting a political subdivision of a state.

Low-income person means a person having an income, adjusted for family size, of not more than—

(1) For metropolitan areas, 80 percent of the median income; and

(2) For non-metropolitan areas, the greater of—

(i) 80 percent of the area median income; or

(ii) 80 percent of the statewide non-metropolitan area median income.

Microenterprise means a sole proprietorship, partnership or corporation that—

(1) Has fewer than 5 employees, including the owner; and

(2) Generally lacks access to conventional loans, equity, or other banking services.

Microenterprise development organization or program means a nonprofit entity, or a program administered by such an entity, including community development corporations or other nonprofit development organizations and social service organizations, that provides services to disadvantaged microentrepreneurs.

Qualified organization means an organization eligible for a PRIME grant identified under § 119.3.

Research and Development Grant means a grant made under the Act identified under § 119.4(c).

Severe constraints on available sources of matching funds means the documented inability of a qualified organization applying for a PRIME grant to raise matching funds or in-kind resources from non-Federal sources during the 2 years immediately prior to the date of its application because of a lack of or increased scarcity of monetary or in-kind resources from potential non-Federal sources.

Small microenterprise development organization or program means a microenterprise development organization or program with less than 10 full time employees or equivalents, including its executive director, as of the date it files its application with SBA for a PRIME grant.

Technical Assistance Grant means a grant made under the Act identified under § 119.4(a).

Training and technical assistance means services and support provided to disadvantaged entrepreneurs, such as, but not limited to, assistance intended to enhance business planning, marketing, management, financial management skills, business operations, or assistance for the purpose of increasing access to loans and other financial services.

Very low-income person means having an income adjusted for family size of not more than 150 percent of the poverty line, as defined in section 673(2) of the Community Services Block Grant Act, 42 U.S.C. 9902(2), including any revision required by that section.

§ 119.3 What types of organizations are eligible for PRIME grants?

An organization eligible for a PRIME grant ("qualified organization") is one that is:

(a) A microenterprise development organization or program as defined in § 119.2(q) (or a group or collaborative thereof) that has a demonstrated record of delivering microenterprise services to disadvantaged microentrepreneurs;

(b) An intermediary, as defined in § 119.2(l);

(c) A microenterprise development organization or program as defined in § 119.2(q) that is accountable to a local community, working with a State or local government or Indian tribe; or

(d) An Indian tribe acting on its own, if the Indian tribe can certify that no private organization or program referred to in paragraphs (a), (b) and (c) of this section exists within its jurisdiction.

§ 119.4 What services or activities must PRIME grant funds be used for?

A recipient of a PRIME grant ("grantee") must use PRIME grants to—

(a) Provide training and technical assistance to disadvantaged microentrepreneurs ("Technical Assistance Grant");

(b) Provide training and capacity building services to microenterprise development organizations and programs to assist them to develop microenterprise training and services ("Capacity Building Grant");

(c) Aid in researching and developing the best practices in the field of microenterprise development and technical assistance programs for disadvantaged microentrepreneurs ("Research and Development Grant"); or

(d) Conduct such other activities as the Administrator or designee determines to be consistent with the purposes of the Act ("Discretionary Grant").

§ 119.5 How are PRIME grant awards allocated?

(a) At least 50 percent of the number of grant awards made under this part will be awarded to qualified organizations that benefit very low-income persons, including those residing on Indian reservations. In general, SBA will make grant award decisions to serve diverse populations by including as recipients both large and small microenterprise development organizations, and organizations serving urban, rural, and Indian tribal communities.

(b) SBA will allocate the funding available for awards as follows:

(1) A minimum of 75 percent for Technical Assistance Grants;

(2) A minimum of 15 percent for Capacity Building Grants; and

(3) The remaining 10 percent or less may be allocated by SBA, in its sole discretion to be used for:

(i) Research and Development Grants; or

(ii) Discretionary Grants.

§ 119.6 What are the minimum and maximum amounts for an award?

(a) The minimum grant award for Technical Assistance and Capacity Building Grants will be $50,000 during the first year of the award, subject to the availability of funds.

(b) There is no minimum grant award for Research and Development or Discretionary Grants.

(c) The maximum amount that an individual grant recipient may receive in any fiscal year from a single award or multiple awards, under any of the purposes of the program, may not exceed $250,000 or 10 percent of the total grant funds available for award in that fiscal year, whichever is less.

§ 119.7 How long and in what amounts will grant funding be available to a single grantee?

(a) Generally, the funding period for a PRIME grant will be one year. Subject to availability of funds and continuing authorization, funding may be available on an annual basis allowing for the initial grant plus up to four option years, for a project period of up to five years. Decisions regarding option year awards and the funding levels of these awards will depend upon availability of funding and the grantee's performance as measured against project objectives and milestones. A grantee that enters into a cooperative agreement must submit a separate application to have the support continued for each subsequent year. In all cases, continuation awards require a determination by SBA that continued

funding is in the best interest of the Federal government. Neither the approval of any application nor the entering into of any cooperative agreement commits or obligates the Federal Government in any way to make any additional, supplemental, continuation or other award with respect to any grantee.

(b) For Technical Assistance and Capacity Building Grants, after a grantee receives an initial grant, funding for any option year(s) must be no more than 67 percent of the initial grant amount.

(c) For Research and Development and Discretionary Grants, after a grantee receives an initial grant, funding for any option year(s) will be approved at the discretion of the SBA.

(d) In the final year of a project, grantees may apply to extend the expiration date of a grant if additional time beyond the established expiration date is required to assure adequate completion of the original scope of work within the funds already made available. For this purpose, the grantee may make an extension request for a one-time, no-cost extension, not to exceed 12 months, prior to the established expiration date. Written notification of such an extension, with the supporting reasons, must be received by the SBA Grant Officer at least 60 days prior to the expiration of the award. SBA reserves the right to disapprove the extension if the requirements set forth in OMB Circular A–110, paragraph .25(e)(2) are not met or if the extension is not in the best interests of SBA.

§ 119.8 Are there matching requirements for grantees?

Applicants and grantees must match SBA funding as follows:

(a) Except as provided in paragraph (c) of this section, applicants and grantees must match Federal assistance with funds from sources other than the Federal Government in an amount not less than 50 percent of the grant amount awarded each year. Sources such as fees, grants, gifts, income from loan sources, and in-kind resources of a grant recipient from non-Federal public or private sources may be used to comply with the matching funds requirement;

(b) Grantees receiving funds in option years as described in § 119.7(b) through (c) are subject to the matching requirements of this section.

(c) Applicants or grantees with severe constraints on available sources of matching funds may request that the Administrator or designee reduce or eliminate the matching requirements. Any reductions or eliminations must not exceed 10 percent of the aggregate of all PRIME grant funds made available by SBA in any fiscal year. By requesting a waiver, the applicant is implying that, but for the waiver, the proposed programming will not be possible at the levels requested.

(d) An applicant may request a waiver of the matching fund requirement by submitting a written request with its application for funding. The request must justify, and evidence, the need for a waiver. As evidence, the request must include, but is not limited to:

(1) The cause and extent of the constraints on the historical and projected ability to raise matching funds as demonstrated by financial statements and letters of rejection from previous funders and potential new funding sources;

(2) Evidence of efforts to raise match specific to the subject application, including negative responses, and

(3) Based on those efforts, a list of any matching funds expected for the PRIME grant.

(e) Subject to § 119.12 (a) through (d), applications will be evaluated on merit before being matched with cost proposals. Any organization requesting a waiver of matching funds, therefore, will not be rejected solely on the basis of such a request.

(f) Applications will be ranked, within their respective categories, from the most to least qualified. The best qualified applicants in each category will be selected whether or not a waiver is requested until the availability of waivers is exhausted.

§ 119.9 How will a qualified organization apply for PRIME grant awards?

(a) SBA will issue Program Announcements specifying the terms, conditions, and evaluation criteria for each potential set of awards. Program Announcements will summarize the purpose of the available funds; will advise potential applicants regarding how to obtain an application packet; and will provide summary information regarding deadlines and other requirements. Program Announcements may specify any limitations, special rules, procedures, and restrictions for available funding.

(b) Applicants may submit applications in response to the Program Announcements. Each applicant shall submit an application for a grant in accordance with this part and the applicable Program Announcement.

(c) SBA reserves the right to consider at the same time multiple applications from a single applicant when appropriate.

§ 119.10 Will SBA give preferential consideration to other SBA program participants?

In making grants under this part, SBA will not give preferential consideration to an applicant that is a participant in programs established under section 7(m) of the Small Business Act.

§ 119.11 What information will be requested in an application under the PRIME program?

Each application must contain the information and documentation specified in the applicable Program Announcement including, but not limited to, the following items.

(a) For applications seeking Technical Assistance Grants:

(1) Identifying information and core documentation for the applicant including such items as the applicant's articles of incorporation, by-laws, proof of IRS tax-exempt status, financial statements, and reference contacts.

(2) A description of past and present activities and technical qualifications of the applicant, including workshops, programs and other technical assistance services, with specific descriptions of the extent to which such services have reached low and very low-income individuals, and the success rates of clients.

(3) A list of applicant's community partnerships and collaborations with state and local entities, and a description of how such partnerships and collaborations are serving microentrepreneurs.

(4) A description of the proposed activity for which the applicant will use PRIME grant funds, including training programming plans; a plan for outreach and delivery; applicant's capacity to provide thorough and detailed reports; and a description of the applicant's current data collection and management system, such as computer hardware, software and internet capabilities.

(5) In the event the applicant is a collaborative, a plan for maintaining internal controls, accountability, and program quality control among the participants of the collaborative.

(6) Resumes of the personnel that will be administering and managing the proposed activities under the PRIME grant, showing knowledge in such areas as business development, business structures, financial management, and business training and counseling.

(7) A list of grants received, and/or contracts entered into, that are similar in scope to the subject grant, including name of Federal or other agency providing funding, grant or contract number, and a summary of services provided.

(b) For applicants seeking Capacity Building Grants:

(1) See paragraphs (a)(1), (5), (6) and (7) of this section.

(2) A description of past and present activities and technical qualifications of the applicant, including workshops, programs, operational services, and other technical assistance services, or program development services with specific descriptions of the extent to which such services have improved the operations of client MDOs, assisted client MDOs with operational issues, and assisted client MDOs in reaching low and very low-income individuals.

(3) A description of the proposed activity for which the applicant will use PRIME grant funds, including training programming plans, a plan for outreach and delivery, applicant's capacity to provide thorough and detailed reports; a description of the applicant's current data collection and management system, such as computer hardware, software, and internet capabilities and a description of how these capabilities will or will not be integrated into the training of MDOs.

(c) For applicants seeking Research and Development Grants:

(1) See paragraphs (a)(1), (6), and (7) of this section.

(2) A research proposal indicating the thesis, method(s), scope, duration, and implementation plans (if any).

(3) A description of the expected effect of the research on services to disadvantaged microentrepreneurs.

(d) For applicants seeking Discretionary Grants:

(1) See paragraph (a)(1) of this section.

(2) A description of the proposed activity for which the applicant will use PRIME grant funds, including applicant's capacity to provide thorough and detailed reports, and a description of the applicant's current data collection and management system, such as computer hardware, software and internet capabilities.

§ 119.12 What criteria will SBA use to evaluate applications for funding under the PRIME program?

During the first year for which funding is available for the PRIME program, SBA will give special consideration to organizations located in and serving areas of, or with a history of successful outreach to, low-income and very low-income persons, to enable the PRIME program to assist those with the greatest need first. SBA will evaluate applications for funding in accordance with the specific goals of the Act, and as more fully described in the Program Announcements. Evaluation criteria include, but are not limited to, the following:

(a) Applications for Technical Assistance Grants:

(1) Applicants will compete based on expertise and ability to fulfill the purposes of the Act.

(2) SBA will evaluate organizational structure, financial stability, financial management systems, personnel capacity, and electronic communication capabilities (or potential for same). SBA will also evaluate data collection capabilities, reporting capacities, and ability to account for performance and outcome.

(3) SBA will evaluate the applicant's history of providing technical assistance to low-income and very low-income microentrepreneurs. This factor includes patterns of program growth, client success, outcomes of training, success in establishing new businesses, and success in arranging micro-level financing when the client indicates financing as a goal.

(4) SBA will evaluate the applicant's ability to use community partnerships and collaborations with state and local entities to better serve low-income and very low-income microentrepreneurs.

(b) Applications for Capacity Building Grants:

(1) SBA will evaluate the criteria set forth in paragraph (a)(2) of this section.

(2) SBA will evaluate the applicant's history of providing capacity building services to MDOs, as an indication of the organization's understanding of the goals and purposes of capacity building, its historical effectiveness with the microenterprise development industry, and its ability to provide quality programming to the targeted market. SBA will evaluate patterns of program growth, outcomes of training, types of services provided, delivery systems used, the number and types of clients served, and the successes realized within the client's organizational goals.

(3) SBA will evaluate expected impact on client MDOs; expected impact on services to low-and very-low income microentrepreneurs; and a plan for service and delivery.

(c) Applications for Research and Development Grants:

(1) SBA will evaluate the criteria set forth in paragraph (a)(2) of this section.

(2) SBA will evaluate how the research potentially will enhance microenterprise-oriented technical assistance services to disadvantaged entrepreneurs. Applicants must show the method(s), scope, duration, and implementation plans of the proposed research.

(3) SBA will evaluate applicant's plan of action incorporating original and secondary research. Applicants must show impact on improved access to microenterprise development services for disadvantaged microentrepreneurs, and the expected replicability/transferability of the finished product to the field.

(d) Applications for Discretionary Grants will be evaluated based on the goals and the viability of the project.

§ 119.13 How will an applicant make a subgrant?

(a) An applicant that wants to make subgrants using PRIME grant funds must receive written approval from SBA prior to making subgrants. The applicant must identify the subgrantee(s) and describe in detail what the subgrantee(s) will do to help the grantee implement its proposal. An applicant must submit information to SBA demonstrating that, through the subgrantee(s), the grantee's program will:

(1) Provide expanded services to the community,

(2) Provide a method by which one or more previously unserved communities will gain access to the program, or

(3) Provide other specific benefits to the clients, such as specialized training, expanded schedules of operation, or other benefits.

(b) If an applicant has identified potential subgrantee(s) at the time it submits an application for a PRIME grant, the applicant must include the information requested in paragraph (a) of this section in the application. Otherwise, the applicant or grantee may submit the requested information at such time that approvals for subgrantee(s) are requested.

(c) A grantee may not use more than 7.5 percent of the assistance received under its PRIME grant for administrative expenses in connection with the making of subgrants.

§ 119.14 Are there limitations regarding the use of program income?

Program income, as defined in OMB Circular A–110, may only be used to further PRIME program objectives. As such, fees collected from clients, and other program income as defined, may be used to help fund the matching requirement. All program income, as defined, shall be reported on financial reports submitted to SBA and added to funds committed to the project by SBA and the recipient organization. However, any interest earned in excess of the maximum allowable amount as specified in the OMB circular incorporated into the grant must be returned to the Federal Government by the grantee.

§ 119.15 If a grantee is unable to spend the entire amount allotted for a single fiscal year, can the funds be carried over to the next year?

(a) The grantee may request approval to use unexpended funds in the next budget period. This is permissible if funds are to be used for a non-severable, non-recurring project or activity within the scope of the PRIME program. Non-severable means a project in its entirety that cannot be subdivided. The request for using unexpended funds in the next budget period must include the following:

(1) SF 424, budget pages, and justification;

(2) Explanation of why the funds were not expended during the period in which they were awarded; and

(3) Evidence of match. The match requirement for funds carried over to the next budget period can be met by using any excess of matching funds from the current budget period, new matching funds, or a combination of both.

(b) The request must be made no later than 60 days before the end of the budget/project period or the de-obligation process will begin. Approved requests will require the issuance of a revised Notice of Award. Expenditures for funds carried over to the next budget period must be tracked separately.

§ 119.16 What are the reporting, record keeping, and related requirements for grantees?

A grantee must keep records and meet the other requirements of section 115 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act), as if it were a community development financial institution. (See 12 U.S.C. 4714). In addition to meeting requirements of the Riegle Act, a grantee must also maintain data allowing it to measure the impact of services provided by it and any subgrantees, and, if specifically required by the terms of the PRIME grant, measure the success rate of individual clients whom the grantees assist. SBA will detail such requirements in its Program Announcements.

§ 119.17 What types of oversight will SBA provide to grantees?

(a) In addition to reports required under the Riegle Act, SBA will require reports in accordance with applicable OMB circulars. Such reports will include the following information:

(1) For recipients of Technical Assistance and Capacity Building Grants, for the first two years of receiving grant funding, narrative performance reports and financial status reports will be required quarterly within 15 calendar days of the end of each quarter. Thereafter, grantees may request that SBA reduce the frequency of reports from quarterly to semi-annually. The frequency of reporting then will be determined at the discretion of SBA. In addition, details of expenditures will be required with each request for payment. Grantees will be required to submit audited financial statements on an annual basis, if available, or annual financial statements prepared by a licensed, independent public accountant, within 120 calendar days of the end of the grantee's fiscal year.

(2) For recipients of Research and Development Grants, reports will be required in accordance with agreed upon milestones and as part of the disbursement process.

(3) For recipients of Discretionary Grants, reports will be required as appropriate for the project, or on a schedule as described in paragraph(a)(1) of this section, whichever is more frequent.

(b) In addition, SBA may, from time to time, make site visits to the grantee, and review all applicable books and records.

§ 119.18 What are the restrictions against lobbying?

No assistance made available under the PRIME program may be expended by a grantee or subgrantee to pay any person to influence, or attempt to influence, any agency, elected official, officer, or employee of a Federal, State, or local government in connection with its participation in the program.

§ 119.19 Is fundraising an allowable expense under the PRIME program?

Expenditures of grant funds for fundraising activities are not allowable costs under this program. Applicants must be able to raise matching funds without the assistance of grant funds. Unless the full requirement for matching funds is waived, the applicant must demonstrate that it has adequate fundraising resources to obtain the required non-Federal matching funds to perform the project.

§ 119.20 Should grantees and subgrantees raise conflict of interest matters with SBA?

Each grantee or subgrantee must provide SBA with a copy of its conflicts of interest policies prior to receipt of funding under the program. Such policies must clearly describe the grantee's or subgrantee's protections from conflicts of interest or the appearance thereof in the handling of grant funding and program provision under this program.

Dated: May 21, 2001.

John Whitmore,

Acting Administrator.

[FR Doc. 01–13230 Filed 5–25–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 2001–ASW–05]

Revision of Class E Airspace, Bay City, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises the Class E Airspace, Bay City, TX.

EFFECTIVE DATE: The direct final rule published at 66 FR 16118 is effective 0901 UTC, July 12, 2001.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on March 23, 2001, (66 FR 16118). The FAA uses the direct final rulemaking procedure for a noncontroversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 12, 2001. No adverse comments were received, and, thus, this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX on May 17, 2001.

Robert N. Stevens,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 01–13308 Filed 5–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–01FR]

Establish Class E Airspace: Hagerstown, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This action established Class E airspace at Hagerstown, MD. Controlled airspace extending upward from the surface is needed to accommodate operations under Instrument Flight Rules (IFR) at the airport when the Air Traffic Control Tower (ATCT) is not in operation.

EFFECTIVE DATE: 0901 UTC July 12, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On February 28, 2001, a document proposing to amend Part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace extending upward from the surface to and including 3200 feet MSL within a 4.1 mile radius of Washington County Regional Airport was published in the **Federal Register** (66 FR 12741–12742). This Class E2 airspace area is effective during the specific dates and times when the Class D airspace is not in effect.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before March 30, 2001. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83.

Class E airspace areas designations for airspace extending upward from the surface of the earth are published in paragraph 6002 of FAA Order 7400.9H, dated September 1, 2000 and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation based in this document will be amended in the order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) provides controlled Class E airspace extending upward from the surface for aircraft conducting IFR operations at the Washington County Regional Airport, Hagerstown, MD at times when the ATCT is closed.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§71.1 [Amended]

The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6002 Class E Airspace Areas extending upward from the surface of the earth

* * * * *

AEA MD E2 Hagerstown, MD

Washington County Regional Airport, Hagerstown, MD.
(Lat. 39°42′28″ N/long.77° 43′46″ W)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.1 mile radius of Washington County Regional Airport. This Class E2 area is effective during the specific dates and time when the Class D airspace is not in effect.

* * * * *

Issued in Jamaica, New York, on May 15, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–13312 Filed 5–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AEA–16FR]

Establish Class E Airspace: South Albany, NY

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at South Albany, NY. An Area Navigation (RNAV) Standard Instrument Approach Procedures has been developed for South Albany Airport, South Bethlehem, NY. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing the approach to the South Albany Airport.

EFFECTIVE DATE: 0901 UTC July 12, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520. Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On February 20, 2001 a document proposing to amend Part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace extending upward from 700 feet Above Ground Level (AGL) for an RNAV aproach to the South Albany Airport, South Bethlehem, NY was published in the **Federal Register** (66 FR 1860–10861).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before March 22, 2001. No comments to the proposal were received. The rule is adopted as proposed. The coordinates for this airspace docket are based on North American Datum 83.

Class E airspace areas designations for airspace extending upward from 700

feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9H, dated September 1, 2000 and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be amended in the order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) provides controlled Class E airspace extending upward from 700 feet above the surface for aircraft conducting IFR operations at the South Albany Airport, South Bethelem, NY.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

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

* * * * *

AEA NY E5 South Albany, NY (New)

South Albany Airport, South Bethlehem, NY
(Lat. 423338.61 N/long. 0735002.24 W)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of South Albany Airport.

* * * * *

Issued in Jamaica, New York, on May 15, 2001.

F.D. Hatifield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–13313 Filed 5–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–10]

Amendment to Class E Airspace, Salisbury, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the geographic coordinates of a final rule that was published in the **Federal Register** on April 13, 2001, Airspace Docket No. 00–AEA–03FR

EFFECTIVE DATE: July 12, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY; 11434–4809; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

Federal Register document 01–7419, Airspace Docket No. 00–AEA–03FR, published on April 13, 2001 (66 FR 19083), established Class E airspace at Salisbury, MD. An error was discovered in the geographic coordinates for the Salisbury, MD airport and two other geographic points were omitted. This action corrects those errors.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the geographic coordinates for the Salisbury airport as published in the **Federal Register** on April 13, 2001 (72 FR 19803, (**Federal Register** Document 01–7419; page 19083 column 2), are corrected as follows:

§ 71.71 [Corrected]

AEA MD E2 Salisbury, MD (Corrected)

Salisbury-Ocean City, Wicomico County Regional Airport

By removing "(lat. 38°20.43′ N/long. 75°30.62′ W)" and substituting "(lat. 38°20′26″ N/long. 75°30′37″ W)"

By adding;

Salisbury VORTAC
(Lat. 38°20′42″ N., long. 75°30′38′ W.
Salisbury-Wicomico County Regional Airport ILS
Runway 32 Localizer
(Lat. 38°20′52″ N., long. 75°31′10″ W.)

Issued in Jamaica, New York, on May 15, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–13314 Filed 5–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Oxytetracycline Hydrochloride Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer, Inc. The NADA provides for a revised withdrawal time for use of oxytetracycline hydrochloride soluble powder in drinking water of swine.

DATES: This rule is effective May 29, 2001.

FOR FURTHER INFORMATION CONTACT: Steven D. Vaughn, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7580.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017–5755, filed a supplement to NADA 8–622 that provides for use of TERRAMYCIN® (oxytetracycline hydrochloride) Soluble Powder for making medicated drinking water for the treatment of various bacterial diseases of livestock. The supplemental NADA provides for a zero-day slaughter withdrawal time after the use of the product in drinking water of swine. The application is approved as of April 25, 2001, and the regulations are amended in 21 CFR 520.1660d to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part

20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subject in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.1660d [Amended]

2. Section 520.1660d *Oxytetracycline hydrochloride soluble powder* is amended in paragraph (d)(1)(iii)(C) by removing "Nos. 000069 and 059130" and by adding in its place "No. 059130 and zero days those products sponsored by No. 000069".

Dated: May 16, 2001.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–13379 Filed 5–25–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid and Bacitracin Zinc

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Alpharma, Inc. The NADA provides for use of approved lasalocid and bacitracin zinc Type A medicated articles to make two-way combination drug Type C medicated feeds used for prevention of coccidiosis, increased rate of weight gain, and improved feed efficiency in broiler chickens.

DATES: This rule is effective May 29, 2001.

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–1600.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed NADA 141–083 that provides for use of Avatec® (90.7 grams per pound (g/lb) lasalocid as lasalocid sodium) and Baciferm® (50 g/lb bacitracin zinc) Type A medicated articles to make two-way combination drug Type C medicated chicken feeds. The combination Type C medicated feeds are used for prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*, and for increased rate of weight gain and improved feed efficiency in broiler chickens. The NADA is approved as of April 18, 2001, and the regulations are amended in 21 CFR 558.311 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.311 is amended in paragraph (e)(1) in the table by redesignating paragraphs (e)(1)(xi) through (e)(1)(xvi) as paragraphs (e)(1)(xii) through (e)(1)(xvii), respectively, and by adding new paragraph (e)(1)(xi) to read as follows:

§ 558.311 Lasalocid.

* * * * *

(e) * * *

(1) * * *

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
*	*	*	*	*
(xi) 68 (0.0075 pct) to 113 (0.0125 pct).	Bacitracin zinc 4 to 50.	Broiler chickens. For prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*, and for increased rate of weight gain and improved feed efficiency.	Feed continuously as sole ration. Bacitracin zinc and lasalocid sodium as provided by No. 046573 in § 510.600(c) of this chapter.	046573
*	*	*	*	*

* * * * *

Dated: May 15, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01–13300 Filed 5–25–01: 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 70

[T.D. ATF–450]

RIN 1512–AC19

Delegation of Authority

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This final rule places most ATF authorities contained in its Procedure and Administration regulations with the "appropriate ATF officer" and requires that persons file documents required these regulations with the "appropriate ATF officer" or in accordance with the instructions on the ATF form. Concurrently with this Treasury Decision, ATF Order 1130.19 is being issued and will be made available as specified in this rule. Through this order, the Director has delegated most of the authorities to the appropriate ATF officers and specified the ATF officers with whom applications, notices and other reports, which are not ATF forms, are filed. In addition, this final rule corrects some typographical errors and updates the disclosure provisions.

EFFECTIVE DATE: This rule is effective May 29, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 (telephone 202–927–8210 or e-mail to alctob@atfhq.atf.treas.gov).

SUPPLEMENTARY INFORMATION:

Background

Delegations of Authority

Pursuant to Treasury Order 120–01 (formerly 221), dated June 6, 1972, and 120–03, dated November 5, 1990, the Secretary of the Treasury delegated to the Director of the Bureau of Alcohol, Tobacco and Firearms (ATF), the authority to enforce, among other laws, the provisions of section 4181 of chapter 32 and chapters 51, 52 and 53 of the Internal Revenue Code of 1986 (IRC) and the Federal Alcohol Administration (FAA) Act. The Director has subsequently redelegated certain of these authorities to appropriate subordinate officers by way of various means, including by regulation, ATF delegation orders, regional directives, or similar delegation documents. As a result, to ascertain what particular officer is authorized to perform a particular function under such provisions, each of these various delegation instruments must be consulted. Similarly, each time a delegation of authority is revoked or redelegated, each of the delegation documents must be reviewed and amended as necessary.

ATF has determined that this multiplicity of delegation instruments complicates and hinders the task of determining which ATF officer is authorized to perform a particular function. ATF also believes these multiple delegation instruments exacerbate the administrative burden associated with maintaining up-to-date delegations, resulting in an undue delay in reflecting current authorities.

Accordingly, this final rule rescinds all authorities of the Director in part 70 that were previously delegated and places those authorities with the "appropriate ATF officer." Most of the authorities of the Director that were not previously delegated are also placed with the "appropriate ATF officer." Along with this final rule, ATF is publishing ATF Order 1130.19, Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 70, Procedure and administration, which delegates certain of these authorities to the appropriate organizational level. The effect of these changes is to consolidate all delegations of authority in part 70 into one delegation instrument. This action both simplifies the process for determining what ATF officer is authorized to perform a particular function and facilitates the updating of delegations in the future. As a result, delegations of authority will be reflected in a more timely and user-friendly manner.

In addition, this final rule also eliminates all references in the regulations that identify the ATF officer with whom an ATF form is filed. This is because ATF forms will indicate the officer with whom they must be filed. Similarly, this final rule also amends part 70 to provide that the submission of documents other than ATF forms (such as letterhead applications, notices and reports) must be filed with the "appropriate ATF officer" identified in ATF Order 1130.19. These changes will facilitate the identification of the officer with whom forms and other required submissions are filed.

This final rule eliminates all references to an ATF region, which were comprised of certain States for ATF administrative purposes but no longer exist. Also, this final rule eliminates the definition of "delegate" in § 70.11 and the references to "delegate" in § 70.803. The definition of delegate in § 70.11 is any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the delegation order. To prevent any misunderstanding or confusion with the ATF delegation order, ATF Order 1130.19, we are removing this term from the aforementioned sections of 27 CFR part 70.

This final rule also makes various technical amendments to Subpart D—Administrative and Miscellaneous Provisions of 27 CFR part 70. Specifically, a new § 70.3 is added to recognize the authority of the Director to delegate regulatory authorities in part 70 and to identify ATF Order 1130.19 as the instrument reflecting such delegations. Also, § 70.2 is amended to provide that the instructions for an ATF form identify the ATF officer with whom it must be filed.

ATF has made or will make similar changes in delegations to all other parts of Title 27 of the Code of Federal Regulations through separate rulemakings.

Typographical and Miscellaneous Corrections

This final rule removes a sentence from § 70.438 that refers to an obsolete ATF publication, corrects references to other sections of regulations in § 70.253(b)(1) and (2) and in § 70.438, corrects § 70.224 that refers to the general statute of limitations on collecting an assessment in accordance with 26 U.S.C. 6502, and corrects § 70.482(e) by raising the amount for which a Chief Counsel's opinion need not be filed for offers-in-compromise in accordance with 26 U.S.C. 7122(b).

Disclosure Changes

In § 70.802 we have eliminated the card index record of permits, which is no longer maintained, and made appropriate changes to the information available or provided by ATF because of the disclosure restrictions of 26 U.S.C. 6103.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Pub. L. 104-13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. A copy of this final rule was submitted to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

It has been determined that this rule is not a significant regulatory action because it will not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 5 U.S.C. 553(b). Similarly it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

Drafting Information

The principal author of this document is Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 70

Administrative practice and procedure, Alcohol and alcoholic beverages, Arms and munitions, Authority delegations (Government Agencies), Bankruptcy, Cigars and cigarettes, Claims, Customs duties and inspection, Disaster Assistance, Excise taxes, Law enforcement, Penalties, Privacy, Seizures, Surety bonds, Tobacco.

Authority and Issuance

Title 27, Code of Federal Regulations is amended as follows:

PART 70—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 70 continues to read as follows:

Authority: 5 U.S.C. 301 and 552; 26 U.S.C. 4181, 4182, 5146, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 5802, 6020, 6021, 6064, 6102, 6155, 6159, 6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331–6343, 6401–6404, 6407, 6416, 6423, 6501–6503, 6511, 6513, 6514, 6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656–6658, 6665, 6671, 6672, 6701, 6723, 6801, 6862, 6863, 6901, 7011, 7101, 7102, 7121, 7122, 7207, 7209, 7214, 7304, 7401, 7403, 7406, 7423, 7424, 7425, 7426, 7429, 7430, 7432, 7502, 7503, 7505, 7506, 7513, 7601–7606, 7608–7610, 7622, 7623, 7653, 7805.

§§ 70.2, 70.25, 70.26, 70.61, 70.94, 70.161, 70.182, 70.191, 70.213, 70.301, 70.31, 70.482 and 70.485(a) [Amended]

Par. 2. In part 70 remove the word "Director" each place it appears and add, in substitution, the words "appropriate ATF officer" each place it appears in the following places:

a. Section 70.2(a);
b. Section 70.25(a)(4);
c. Section 70.26(c)(2)(ii);
d. Section 70.61(a)(1)(i) introductory text, (a)(1)(i)(C) and (a)(2);
e. Section 70.94(a);
f. Section 70.161(a)(4)(i)(B);
g. Section 70.182(a);
h. Section 70.191(b) introductory text;
i. Section 70.213;
j. Section 70.301(a);
k. Section 70.311;
l. Section 70.482(a) introductory text; and
m. Section 70.485(a).

Par. 3. Section 70.2 is further amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 70.2 Forms prescribed.

(a) * * * The form will be filed in accordance with the instructions for the form.

(b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150–5950, or by accessing the ATF web site (*http://www.atf.treas.gov/*).

Par. 4. In Subpart A—Scope, a new § 70.3 is added as follows:

§ 70.3 Delegations of the Director.

Most of the regulatory authorities of the Director contained in this Part 70 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.19, Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 70, Procedure and administration. ATF delegation orders, such as ATF Order 1130.19, are available to any interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150–5950, or by accessing the ATF web site (*http://www.atf.treas.gov/*).

Par. 5. Section 70.11 is amended by removing the definitions of "ATF officer", "Chief, Tax Processing Center", "Delegate", "Regional director (compliance)", and "Special agent in charge", and by adding a new definition of "Appropriate ATF officer" to read as follows:

§ 70.11 Meaning of terms.

* * * * *

Appropriate ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.19, Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 70, Procedure and Administration.

* * * * *

§§ 70.21, 70.100, 70.167, 70.168, 70.169, 70.181, 70.182, 70.183, 70.184, 70.185, 70.186, 70.187, 70.188, 70.206, 70.253, 70.263, 70.413, 70.433, 70.425, 70.504, 70.507, 70.602, 70.606, 70.608 and 70.609 [Amended]

Par. 6. Part 70 is further amended by removing the words "regional director (compliance)" and "regional director's" each place it appears and adding, in substitution, the words "appropriate ATF officer" and "appropriate ATF officer's", respectively, in the following places:

a. Section 70.21;
b. Section 70.100;
c. The last sentence of the undesignated paragraph following § 70.167(b)(1)(iii);
d. Section 70.168(a);
e. Section 70.169;
f. Section 70.181(b)(1) and (2), and (c)(1)(i) and (ii), (c)(2), (c)(3)(i), introductory text of (c)(4)(i), undesignated paragraph after (c)(4)(ii)(D), and (c)(4)(iv) introductory text, (c)(5) introductory text, (c)(5)(ii)(B) and (c)(8);
g. Section 70.182(a)(1), (3), (4) introductory text and (6)(ii), and (b);
h. Section 70.183(b)(2), (3), (6), (7) introductory text, (9)(ii) and (11);
i. Section 70.184(a), (b), (c) introductory text, and (c) (1);

j. Section 70.185(a), (b) and (c);
k. Section 70.186(b)(2) and (c);
l. Section 70.187(a);
m. Section 70.188;
n. Section 70.206(a)(1), (b)(3)(ii), the introductory text and the last sentence of (b)(4)(ii), (b)(4)(ii)(A), the undesignated paragraph following (b)(4)(ii)(B), (b)(4)(iii), (c)(2) and (3);
o. Section 70.253(b)(2);
p. Section 70.263(d);
q. Section 70.413(a);
r. The third sentence of § 70.433(a);
s. Section 70.435(i);
t. Section 70.504(c)(2);
u. Section 70.507(g);
v. Section 70.602(a) and (b)(1) introductory text;
w. Section 70.606 introductory text;
x. Section 70.608; and
y. Section 70.609.

§ 70.21 [Amended]

Par. 7. Section 70.21 is further amended by removing the phrase "through the region".

§ 70.22 [Amended]

Par. 8. Section 70.22 is amended as follows:

a. By removing the words "authorized officer or employee of the Bureau" and adding, in substitution, the words "appropriate ATF officer" in paragraph (a);

b. By removing the words "officers and employees of the Bureau designated in paragraph (c) of this section" and, in substitution, adding the words "appropriate ATF officers" in the first sentence of paragraph (b);

c. By removing the words "The officers and employees designated in paragraph (c) of this section may designate any other employee of the Bureau" and adding, in substitution, the words "Such ATF officer may designate an appropriate ATF officer" in the second sentence of paragraph (b);

d. By removing the words "other employee" and adding, in substitution, the words "officer" in the third sentence in paragraph (b); and

e. By removing paragraph (c).

Par. 9. Paragraph (b) of § 70.23 is revised to read as follows:

§ 70.23 Service of summonses.

* * * * *

(b) *Persons who may serve summonses.* Any appropriate ATF officer may serve a summons issued under 26 U.S.C. 7602.

* * * * *

§ 70.24 [Amended]

Par. 10. The first sentence of § 70.24(b) is amended by removing the words "The officers and employees of the Bureau designated in paragraph (c) of § 70.22" and adding, in substitution, the words "Appropriate ATF officers".

Par. 11. Section 70.30 is revised to read as follows:

§ 70.30 Time and place of examination.

(a) *Time and place.* The time and place of examination pursuant to the provisions of 26 U.S.C. 7602 must be such time and place as may be fixed by an appropriate ATF officer and as are reasonable under the circumstances. The date fixed for appearance shall not be less than 10 days from the date of the summons.

(b) *Restrictions on examination of taxpayer.* No taxpayer is to be subjected to unnecessary examination or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless an authorized internal revenue or an appropriate ATF officer, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.

(68A Stat. 902, as amended (26 U.S.C. 7605))

Par. 12. Section 70.31 is revised to read as follows:

§ 70.31 Entry of premises for examination of taxable objects.

(a) *General.* An appropriate ATF officer may, in the performance of his or her duty, enter in the daytime any building or place where any articles or objects subject to tax are made, produced, or kept, so far as it may be necessary for the purpose of examining said articles or objects and also enter at night any such building or place, while open, for a similar purpose.

(b) *Distilled spirits plants.* Any appropriate ATF officer may, at all times, as well by night as by day, enter any plant or any other premises where distilled spirits are produced or rectified, or structure or place used in connection therewith for storage or other purposes; to make examination of the materials, equipment and facilities thereon; and make such gauges and inventories as such officer deems necessary. Whenever any appropriate ATF officer, having demanded admittance, and having declared his or her name and office, is not admitted to such premises by the proprietor or other person having charge thereof, such officer may at all times, use such force as is necessary for such officer to gain entry to such premises.

(c) *Authority to break up grounds.* An appropriate ATF officer, and any person acting in his or her aid, may break up the ground on any part of a distilled spirits plant, or any other premises where spirits are produced or rectified, or any ground adjoining or near to such plant or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and, upon finding any such pipe or conveyance leading therefrom or thereto, to break up any ground, house, wall, or other place through or into which such pipe or other conveyance leads, and to break or cut away such pipe or other conveyance, and turn any cock, or to determine whether such pipe or other conveyance conveys or conceals any spirits, mash, wort, or beer, or other liquor, from the sight or view of the appropriate ATF officer, so as to prevent or hinder such officer from taking a true account thereof.

(68A Stat. 903, 72 Stat. 1357 (26 U.S.C. 7606, 5203))

§ 70.32 [Amended]

Par. 13. Section 70.32 is amended by removing the phrase "of the Bureau" and by adding the words "appropriate ATF" before the word "officer" each place it appears.

Par. 14. The introductory text of § 70.33 is revised to read as follows:

§ 70.33 Authority of enforcement officers of the Bureau.

Appropriate ATF officers may perform the following functions:

* * * * *

Par. 15. Section § 70.34 is revised to read as follows:

§ 70.34 Listing by appropriate ATF officers of taxable objects owned by nonresidents.

Whenever there are any articles in any internal revenue district subject to tax, which are not owned or possessed by, or under the care or control of, any person within such district, and of which no list has been transmitted to the appropriate ATF officer, as required by law or by regulations prescribed pursuant to law, an appropriate ATF officer shall enter the premises where such articles are situated, make such inspection of the articles as may be necessary, and make lists of the same according to the forms prescribed. Such lists, being subscribed by the appropriate ATF officer, are sufficient lists of such articles for all purposes.

* * * * *

Par. 16. Section 70.40 is revised to read as follows:

§ 70.40 Authority to administer oaths and certify.

Appropriate ATF officers are authorized to administer such oaths or

affirmations and to certify to such papers as may be necessary under the tax laws administered by the Bureau, the Federal Alcohol Administration Act, or regulations issued thereunder, except that the authority to certify must not be construed as applying to those papers or documents the certification of which is authorized by separate order or directive.

(68A Stat. 904 (26 U.S.C. 7622))

Par. 17. Section 70.41 is amended by revising the first sentence of paragraph (a); the first, second and last sentences of paragraph (c); the first sentence of paragraph (d); and the last two sentences of paragraph (f) to read as follows:

§ 70.41 Rewards for information relating to violations of tax laws administered by the Bureau.

(a) *In general.* An appropriate ATF officer may approve such reward as he or she deems suitable for information that leads to the detection and punishment of any person guilty of violating any tax law administered by the Bureau or conniving at the same. * * *

* * * * *

(c) *Amount and payment of reward.* All relevant factors, including the value of the information furnished in relation to the facts developed by the investigation of the violation, must be taken into account in determining whether a reward must be paid, and, if so, the amount thereof. The amount of a reward shall represent what the appropriate ATF officer deems to be adequate compensation in the particular case, normally not to exceed 10 percent of the additional taxes, penalties, and fines which are recovered as a result of the information. * * * No person is authorized under these regulations to make any offer, or promise, or otherwise to bind the appropriate ATF officer with respect to the payment of any reward or the amount thereof.

(d) *Submission of Information.* Persons desiring to claim rewards under the provisions of 26 U.S.C. 7623 and this section may submit information relating to violations of tax laws administered by the Bureau to an appropriate ATF officer. * * *

* * * * *

(f) *Filing claim for reward.* * * * Claim for reward under the provisions of 26 U.S.C. 7623 must be made on ATF Form 3200.13. ATF Form 3200.13 should be obtained from the office where the information is filed.

* * * * *

Par. 18. The section heading and paragraphs (a)(1), (b) and (c)(1) of § 70.42 are revised to read as follows:

§ 70.42 Returns prepared or executed by appropriate ATF officers.

(a) *Preparation of returns*—(1) *General.* If any person, required by provisions of 26 U.S.C. enforced and administered by the Bureau or by the regulations prescribed thereunder to make a return, fails to make such return, it may be prepared by an appropriate ATF officer provided the person required to make the return consents to disclose all information necessary for the preparation of such return. The return upon being signed by the person required to make it must be received by the appropriate ATF officer, as the return of such person.

* * * * *

(b) *Execution of returns*—(1) *General.* If any person, required by provisions of 26 U.S.C. enforced and administered by the Bureau or by the regulations prescribed thereunder to make a return, fails to make a return at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the appropriate ATF officer must make such return from such officer's own knowledge and from such information as the officer can obtain through testimony or otherwise.

(2) *Status of returns.* Any return made in accordance with paragraph (b)(1) of this section and subscribed by the appropriate ATF officer is prima facie good and sufficient for all legal purposes.

(c) *Cross references.* (1) For provisions that the return executed by an appropriate ATF officer will not start the running of the period of limitations on assessment and collection, see 26 U.S.C. 6501(b)(3) and § 70.222(b) of this part.

* * * * *

Par. 19. Section 70.51 is revised to read as follows:

§ 70.51 Collection authority.

The taxes imposed by provisions of 26 U.S.C. enforced and administered by the Bureau must be collected by appropriate ATF officers.

(26 U.S.C. 6301)

§ 70.61, 70.77, 70.96, 70.167 [Amended]

Par. 20. Part 70 is further amended by removing the phrase "regional director(s) (compliance) or the Chief, Tax Processing Center," or "regional director (compliance) or the Chief, Tax Processing Center" and adding, in substitution, the words "the appropriate ATF officer" each place it appears in the following places:

a. The introductory text of § 70.61(a)(1)(i);

b. Section 70.77(b)(1) and (2);

c. Section 70.96(a)(1)(iv), (a)(2) and (a)(3); and

d. Section 70.167(a)(2)(ii).

§§ 70.61, 70.71 and 70.123 [Amended]

Par. 21. Part 70 is further amended by removing the words "regional directors (compliance) and Chief, Tax Processing Center" or "regional director (compliance) and Chief, Tax Processing Center" and adding, in substitution, the words "appropriate ATF officers" each place that they appear in the following places:

a. Section 70.61 (a)(1)(i)(D) and (a)(3);

b. Section 70.71 introductory text; and

c. Section 70.123(b)(2).

Par. 22. The first three sentences of § 70.64 are revised to read as follows:

§ 70.64 Receipt for taxes.

The appropriate ATF officer must, upon request, issue a receipt for each tax payment made (other than a payment for stamps sold or delivered). In addition, an appropriate ATF officer or employee must issue a receipt for each payment of 1 dollar or more made in cash, whether or not requested. In the case of payments made by check, the canceled check is usually a sufficient receipt. * * *

* * * * *

§§ 70.71, 70.73, 70.74, 70.75, 70.76, 70.77, 70.81, 70.82, 70.92, 70.96, 70.98, 70.101, 70.113, 70.122, 70.123, 70.124, 70.161, 70.162, 70.163, 170.164, 70.223, 70.271, 70.281, 70.447, 70.481 and 70.486 [Amended]

Par. 23. Part 70 is further amended by removing the words "regional director (compliance) or the Chief, Tax Processing Center" or "regional director (compliance) or Chief, Tax Processing Center" and adding, in substitution, the words "appropriate ATF officer" each place it appears in the following places:

a. Section 70.71(a); (b)(1)(ii) and (b)(2);

b. Section 70.73;

c. Section 70.74(c)(1) and (c)(2);

d. Section 70.75(b) and (c);

e. Section 70.76(a), (b)(3), (c) and (d);

f. Section 70.77(a)(1) and (2);

g. Section 70.81(a);

h. Section 70.82;

i. Section 70.92(c) and (d)(2)(i);

j. The fourth sentence of § 70.96(c);

k. The third sentence of § 70.98(b);

l. Section 70.101;

m. Section 70.113(b);

n. Section 70.122;

o. Section 70.123(b)(1);

p. Section 70.124;
q. Section 70.161(a)(1), (2) and (b);
r. Section 70.162(a) and (b);
s. Section 70.163(b)(1) and (c);
t. Section 170.164(b)(1) introductory text;
u. Section 70.223(d);
v. Section 70.271(d)(1);
w. Section 70.281(b)(2) introductory text, (b)(2)(vi), and (b)(3)(v);
x. Section 70.447;
y. Section 70.481(a), and (b)(2)(ii), (3)(ii) and (4)(iii); and
z. Section 70.486.

§ 70.72 [Amended]

Par. 24. Section 70.72 is amended by:
a. Removing the first sentence; and
b. Removing the words "assessment officer" and adding, in substitution, the words "appropriate ATF officer" in the remaining first and fourth sentences.

§§ 70.73, 70.96 and 70.98 [Amended]

Par. 25. Part 70 is further amended by removing the words "regional director (compliance) of the region in which the taxpayer is located or with the Chief, Tax Processing Center" and adding, in substitution, the words "appropriate ATF officer" each place it appears in the following places:
a. The first sentence of § 70.74(b);
b. The second sentence of § 70.96(c); and
c. The second sentence of § 70.98(b).

Par. 26. The introductory text of paragraph (a) of § 70.75 is revised to read as follows:

§ 70.75 Jeopardy assessment of alcohol, tobacco, and firearms taxes.

(a) If the appropriate ATF officer believes that the collection of any tax imposed under provisions of 26 U.S.C. enforced and administered by the Bureau will be jeopardized by delay, the appropriate ATF officer must, whether or not the time otherwise prescribed by law for filing the return or paying such tax has expired, immediately assess such tax, together with all interest, additional amounts and additions to the tax provided by law. An appropriate ATF officer will make an assessment under this section if collection is determined to be in jeopardy because at least one of the following conditions exists.

* * * * *

§ 70.96 [Amended]

Par. 27. The third sentence of § 70.96(c) is amended by removing the words "ATF officer working under the supervision of the regional director (compliance)" and adding, in substitution, the words "appropriate ATF officer".

§ 70.123 [Amended]

Par. 28. Section 70.123(a)(2) is amended by removing the words "regional director (compliance), for the region in which the claimant is located, or, in the case of special (occupational) tax, with the Chief, Tax Processing Center" and adding, in substitution, the words "appropriate ATF officer".

Par. 29. In § 70.125, paragraph(a), the last sentence of paragraph (b), and paragraph (c) are revised to read as follows:

§ 70.125 Abatements.

(a) The appropriate ATF officer may abate the unpaid portion of any assessment or liability, if the assessment is in excess of the correct tax liability, if the assessment is made subsequent to the expiration of the period of limitation applicable thereto, or if the assessment has been erroneously or illegally made.

(b) * * * All such claims must be filed with the appropriate ATF officer who made demand for the amount assessed.

(c) The appropriate ATF officer may issue uniform instructions to abate amounts the collection of which is not warranted because of the administration and collection costs.

* * * * *

§ 70.126 [Amended]

Par. 30. Section 70.126 is amended by removing the words "regional director (compliance) or the Chief, Tax Processing Center, or an authorized certifying officer designated by the regional director (compliance) or the Chief, Tax Processing Center" and adding, in substitution, the words "appropriate ATF officer".

§§ 170.149 and 170.161 [Amended]

Par. 31. Part 70 is further amended by removing the words "Chief, Tax Processing Center or the regional director (compliance)" and adding, in substitution, the words "appropriate ATF officer" each place it appears in the following places:
a. The introductory text of paragraph (a)(3) and paragraph (b)(2)(i)(A) of § 70.149; and
b. The last sentence of § 70.161(c).

Par. 32. In § 70.150 the introductory text of paragraph (a) is revised to read as follows:

§ 70.150 Release of lien or discharge of property.

(a) *Release of lien.* An appropriate ATF officer is charged with releasing liens or discharging property from liens. The appropriate ATF officer must issue a certificate of release of a lien imposed with respect to any tax imposed by a provision of 26 U.S.C. enforced and administered by the Bureau, not later than 30 days after the day on which either:

* * * * *

§ 70.150, 70.164, 70.170, 70.187, 70.205, 70.231, 70.241, 70.242 and 70.245 [Amended]

Par. 33. Part 70 is further amended by removing the words "Chief, Tax Processing Center" or "Chief, Tax Processing Center's" and adding, in substitution, the words "appropriate ATF officer" or the words "appropriate ATF officer's", respectively, each place they appear in the following places:
a. Section 70.150 (a)(1) and (2), (b), (c)(1), (2) and (3), (d), (e)(1) introductory text and (e)(2)(i) introductory text, (e)(2)(i)(B);
b. Section 70.164(c);
c. Section 70.170(b);
d. Section 70.187 (a) and (b);
e. Section 70.205(a)(1), (a)(2)(i) and (a)(2)(ii)(C), (b)(1) except the last sentence and (b)(2), and (c)(1) except the last sentence, (e)(2), (e)(3) and (e)(4);
f. Section 70.231(i)(3);
g. Section 70.241(a)(8);
h. Section 70.242(a) and (c); and
i. Section 70.245 section heading, (a) and (c)(2) and (d).

§ 70.150, 70.151, 70.161, 70.162, 70.163, 70.164, 70.167, 70.187, 70.204, 70.205, 70.206, 70.207, 70.208, 70.209, 70.210, 70.241, 70.281, 70.413, 70.414, 70.481 and 70.482 [Amended]

Par. 34. Part 70 is further amended by removing the word "official" or "official's" and adding, in substitution, the word "officer" or "officer's", respectively, each place they appear in the following places:
a. Section 70.150 (b)(1), (b)(2)(i), (b)(3), (c)(1) and (c)(2);
b. Section 70.151(a), (b), (d), (e)(1), (f)(3) and (g)
c. Section 70.161(a)(2);
d. Section 70.162(c) and (d);
e. Section 70.163(a)(1) and (c);
f. Section 70.164(b)(1)(i) and (ii), (b)(2)(i), (b)(2)(ii), and (c);
g. Section 70.167(a)(4), (b)(2) introductory text and (b)(3);
h. Section 70.186(a)(5);
i. The undesignated paragraph after § 70.204(a)(3);
j. Section 70.205(b)(1) and (e)(2);
k. Section 70.206(b)(4)(ii)(B);
l. Section 70.207(b)(1)(iii);
m. Section 70.208;
n. Section 70.209 (a) and (b);
o. Section 70.210(a)(1);
p. Section 70.241(a)(8);
q. Section 70.281(b)(2)(vi) and (3)(iv);
r. Section 70.413(c)(1);

s. Section 70.414(k);

t. Section 70.481(b)(2) introductory text, (3)(i), (3)(ii)(B) and (4) introductory text; and

u. Section 70.482(d)(1)(i).

§ 70.151 [Amended]

Par. 35. Section 70.151(g) is further amended by removing the words "the regional director (compliance) of the region in which a notice of Federal tax lien was filed or the Chief, Tax Processing Center" and adding, in substitution, the words "an appropriate ATF officer".

Par. 36. Section 70.161 is amended by:

a. Revising the first, second, third and eleventh sentences of paragraph (a)(1) to read as follows:

§ 70.161 Levy and distraint.

(a) *Authority to levy—(1)* In general. If any person liable to pay any tax neglects or refuses to pay the tax within 10 days after notice and demand, the appropriate ATF officer who initiated the assessment may proceed to collect the tax by levy, provided the taxpayer has been furnished the notice described in § 70.162(a) of this part. The appropriate ATF officer may levy upon any property, or rights to property, whether real or personal, tangible or intangible, belonging to the taxpayer. The appropriate ATF officer may also levy upon property with respect to which there is a lien provided by 26 U.S.C. 6321 for the payment of the tax. For exemption of certain property from levy, see 26 U.S.C. 6334 and §§ 70.241 through 70.245 of this part. * * * For example, if on the first day of the month a delinquent taxpayer sold personal property subject to an agreement that the buyer remit the purchase price on the last day of the month, a levy made on the buyer on the 10th day of the month would reach the amount due on the sale, although the buyer need not satisfy the levy by paying over the amount to the appropriate ATF officer until the last day of the month. * * *

b. Removing the words "Chief, Tax Processing Center or to the region director (compliance) having jurisdiction over such person" in the fifth sentence of paragraph (c) and adding, in substitution, the words "appropriate ATF officer".

Par. 37. The introductory text of § 70.163(a)(2)(ii) is revised to read as follows:

§ 70.163 Surrender of property subject to levy.

(a) * * *

(2) * * *

(ii) Notwithstanding paragraph (a)(1) of this section, if a levy has been made upon property or rights to property subject to levy which a bank engaged in the banking business in the United States or a possession of the United States is in possession of (or obligated with respect to), an appropriate ATF officer shall not enforce the levy with respect to any deposits held in an office of the bank outside the United States or a possession of the United States, unless the notice of levy specifies that such officer intends to reach such deposits. The notice of levy must not specify that such officer intends to reach such deposits unless that officer making such levy believes:

* * * * *

§ 70.165 [Amended]

Par. 38. Section 70.165 is amended by adding the word "appropriate" before the words "ATF officer".

Par. 39. Paragraphs (a)(1), (a)(2)(i)(C) and (D), and (a)(4), and the introductory text of paragraph (b)(1) of § 70.167 are revised to read as follows:

§ 70.167 Authority to release levy and return property.

(a) *Release of levy—(1) Authority.* An appropriate ATF officer may release the levy upon all or part of the property or rights to property levied upon as provided in paragraphs (a)(2), (3) and (4) of this section. A levy may be released under paragraph (a)(3) of this section only if the delinquent taxpayer complies with such of the conditions thereunder as an appropriate ATF officer may require and if the appropriate ATF officer determines that such action will facilitate the collection of the liability. * * *

* * * * *

(2) * * *

(i) * * *

(C) The taxpayer has entered into an agreement under 26 U.S.C. 6159 to satisfy such liability by means of installment payments, unless such agreement provides otherwise (an appropriate ATF officer is not required to release the levy in this case if release of such levy would jeopardize the secured creditor status of the United States).

(D) An appropriate ATF officer has determined that such levy is creating an economic hardship due to the financial condition of the taxpayer, or

(4) Release where value of interest of United States is insufficient to meet expenses of sale. An appropriate ATF officer may release the levy as authorized under paragraph (a)(1) of this section if that officer determines that the value of the interest of the United States in the seized property, or in the part of the seized property to be released is insufficient to cover the expenses of the sale of such property.

* * * * *

(b) *Return of property—(1) General rule.* If an appropriate ATF officer determines that property has been wrongfully levied upon, the appropriate ATF officer may return:

* * * * *

§§ 70.167 and 70.251 [Amended]

Par. 40. Part 70 is further amended by removing the words "a regional director (compliance) or the Chief, Tax Processing Center" and adding, in substitution the words "an appropriate ATF officer" each place they appear in the following places:

a. Section 70.167(a)(2)(i) introductory text and (a)(3); and

b. Section 70.251(a)(2) and (b).

Par. 41. The first sentence of paragraph (b)(2) and paragraph (c) of § 70.168 are revised to read as follows:

§ 70.168 Redemption of property.

* * * * *

(b) * * *

(2) *Price.* Such property or tract of property may be redeemed upon payment to the purchaser, or in case the purchaser cannot be found in the county in which the property to be redeemed is situated, then to the appropriate ATF officer, for the use of the purchaser, the purchaser's heirs, or assigns, the amount paid by such purchaser and interest thereon at the rate of 20 percent per annum. * * *

* * * * *

(c) *Record.* When any real property is redeemed, the appropriate ATF officer must cause entry of the fact to be made upon the record of sale kept in accordance with 26 U.S.C. 6340 and § 70.187 of this part, and such entry is evidence of such redemption. The party who redeems the property must notify the appropriate ATF officer of the date of such redemption and of the transfer of the certificate of sale, the amount of the redemption price, and the name of the party to whom such redemption price was paid.

* * * * *

§ 70.181 [Amended]

Par. 42. Section 70.181 is further amended by:

a. Adding the word "appropriate" before the words "ATF officer" in paragraphs (a), (c)(3)(ii) and (c)(4)(iii);

b. Removing the phrase "within the ATF region where the seizure is made" from the second sentence and the

phrase "within such region" from the third sentence in paragraph (b)(1);

c. Removing the phrase "or cause the ATF officer conducting the sale to adjourn" and the comma preceding such phrase in paragraph (c)(2); and

d. Removing "AFT" before the word "officer" in paragraph (c)(5)(ii)(D).

§§ 70.181, 70.182, 70.183, 70.204 and 70.251 [Amended]

Par. 43. Part 70 is further amended by removing the term "ATF" before the word "officer" or "officers" each place it appears in the following places:

a. Paragraph (c)(5)(ii)(E) and the first sentence of paragraph (c)(8) of § 70.181;

b. Section 70.182(a)(2)(ii), (6)(iv) and (v), (7) and (9);

c. Section 70.183 (b)(4), (9)(iv) and (v), (10);

d. The last sentence of the undesignated paragraph after § 70.204(a)(3); and

e. Section 70.251(b).

Par. 44. The fourth and subsequent sentences of paragraph (a)(2)(i) of § 70.182 are revised to read as follows:

§ 70.182 Disposition of personal property acquired by the United States.

(a) *Sale*—* * *

* * * * *

(2) *Time, place, manner and terms of sale.*

(i) *Time, notice, and place of sale.* * * * In addition, the appropriate ATF officer may use such other methods of advertising as such officer believes will result in obtaining the highest price for the property. Generally, the place of sale will be within the area where the property was originally acquired by the United States. However, if the appropriate ATF officer believes that a substantially higher price may be obtained, the sale may be held outside such area.

* * * * *

Par. 45. Section 70.183 is further amended by:

a. Removing the words "regional director (compliance) for the region in which the property is situated" and adding, in substitution, the words "appropriate ATF officer" each place they appear in paragraphs (a), (b) introductory text, (c) and (e);

b. Removing the words "regional director (compliance) for the region in which the property is located" and adding, in substitution, the words "appropriate ATF officer" in paragraph (d); and

c. Revising paragraph (f) to read as follows:

§ 70.183 Administration and disposition of real estate acquired by the United States.

* * * * *

(f) *Authority of appropriate ATF officer.* Notwithstanding the other paragraphs of this section, the appropriate ATF officer may, when such officer deems it advisable, take charge of, and assume responsibility for, any real estate to which this section is applicable. In such case, such officer will notify in writing the appropriate ATF officer from whom he or she is taking charge and assuming responsibility. Also, in any case where a single parcel of real estate is situated in an area in which more than one officer has jurisdiction, the appropriate ATF officer may designate in writing one officer who is to be in charge of, and responsible for, the entire property.

* * * * *

§ 70.187 [Amended]

Par. 46. The first sentence of § 70.187(a) is further amended by removing the words "that region" and adding, in substitution, the words "his or her jurisdiction".

Par. 47. Section 70.191(a) is revised to read as follows:

§ 70.191 Authorization.

(a) *In general.* A civil action for the collection or recovery of taxes, or of any fine, penalty, or forfeiture (with respect to the provisions of 26 U.S.C. enforced and administered by the Bureau) will be commenced when the appropriate ATF officer, directs that the action be commenced.

* * * * *

Par. 48. Paragraph (a) of § 70.192 is revised to read as follows:

§ 70.192 Action to enforce lien or to subject property to payment of tax.

(a) *Civil actions.* In any case where there has been a refusal or neglect to pay any tax (with respect to the provisions of 26 U.S.C. enforced and administered by the Bureau) or to discharge any liability in respect thereof, whether or not levy has been made, the Attorney General or designated delegate at the request of the appropriate ATF officer, may direct a civil action to be filed in any court of the United States to enforce the lien of the United States under the Internal Revenue Code with respect to such tax or liability or to subject any property, of whatever nature, of the delinquent, or in which the delinquent has any right, title or interest, to the payment of such tax or liability. In any such proceeding, at the instance of the United States, the court may appoint a receiver to enforce the lien, or, upon certification by the appropriate ATF officer during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver in equity.

* * * * *

§ 70.205 [Amended]

Par. 49. The last sentences of 70.205(b)(1) and (c)(1) are amended by removing the phrase "the authority of the Chief, Tax Processing Center and the regional director (compliance) to release a lien or to discharge" and adding, in substitution, the words "releasing a lien or discharging".

Par. 50. The second sentence of § 70.206(a)(1) is amended by removing the phrase "the Chief, Tax Processing Center, has consented to the sale" and adding, in substitution, the words "a consent to the sale has been made".

Par. 51. Section 70.206 is further amended by:

a. Removing the phrase "a regional director (compliance)" and adding, in substitution, the words "an appropriate ATF officer" in the introductory text of paragraph (b)(1), and the first undesignated sentence following paragraph (b)(4)(ii)(B); and

b. Revising paragraphs (c)(1) and (4) to read as follows:

§ 70.206 Discharge of liens; redemption by United States.

* * * * *

(c) *Certificate of redemption*—(1) *In general.* If an appropriate ATF officer exercises the right of redemption of the United States described in paragraph (a) of this section, the appropriate ATF officer shall apply to the officer designated by local law, if any, for the documents necessary to evidence the fact of redemption and to record title to the redeemed property in the name of the United States. If no such officer has been designated by local law, or if the officer designated by local law fails to issue the necessary documents, the appropriate ATF officer is authorized to issue a certificate of redemption for the property redeemed by the United States.

* * * * *

(4) Application for release of right of redemption. Upon application of a party with a proper interest in the real property sold in a nonjudicial sale described in 26 U.S.C. 7425(b) and § 70.204 of this part, which real property is subject to the right of redemption of the United States described in this section, the appropriate ATF officer may, in that officer's discretion, release the right of redemption with respect to the property. The application for the release must be

submitted in writing to an appropriate ATF officer and must contain such information as the appropriate ATF officer may require. If the appropriate ATF officer determines that the right of redemption of the United States is without value, no amount shall be required to be paid with respect to the release of the right of redemption.

* * * * *

Par. 52. Paragraph (b) of § 70.222 is revised to read as follows:

§ 70.222 Time return deemed filed for purposes of determining limitations.

* * * * *

(b) *Returns executed by appropriate ATF officers.* The execution of a return by an appropriate ATF officer under the authority of section 6020(b) of the Internal Revenue Code does not start the running of the statutory period of limitations on assessment and collection.

* * * * *

Par. 53. Paragraphs (a)(1) and (2)(i) of § 70.224 are revised to read as follows:

§ 70.224 Collection after assessment.

(a) *Length of period*—(1) *General rule.* In any case in which a tax has been assessed within the statutory period of limitation properly applicable thereto, a proceeding in court to collect such tax may be begun, or levy for the collection of such tax may be made, within 10 years after the assessment thereof.

(2) *Extension by agreement.*

(i) The 10-year period of limitation on collection after assessment of any tax may, prior to the expiration thereof, be extended for any period of time agreed upon in writing by the taxpayer and the appropriate ATF officer. Whenever necessary to protect the revenue, such officer may also execute a written agreement with the taxpayer to extend the period of limitation. The extension becomes effective upon execution of the agreement by both the taxpayer and such officer.

* * * * *

Par. 54. The first sentence of § 70.227 is revised to read as follows:

§ 70.227 Suspension of running of period of limitation; wrongful seizure of property of third party.

The running of the period of limitations on collection after assessment prescribed in 26 U.S.C. 6502 (relating to collection after assessment) shall be suspended for a period equal to a period beginning on the date property (including money) is wrongfully seized or received by an appropriate ATF officer and ending on the date 30 days after the date on which the appropriate ATF officer returns the property pursuant to 26 U.S.C. 6343(b) (relating to authority to return property) or the date 30 days after the date on which a judgment secured pursuant to 26 U.S.C. 7426 (relating to civil actions by persons other than taxpayers) with respect to such property becomes final. * * *

* * * * *

§ 70.253 [Amended]

Par. 55. Paragraphs (b)(1) and (2) of § 70.253 are further amended by removing "§ 70.67" and adding, in substitution, "70.167".

§ 70.262 [Amended]

Par. 56. Paragraph (b)(4) of § 70.262 is further amended by removing the phrase "by the regional director (compliance)".

Par. 57. Paragraph (c)(2) of § 70.262 is amended by removing the words "by the regional director (compliance) or the Chief, Tax Processing Center".

§ 70.281 [Amended]

Par. 58. Section 70.281 is further amended by:

a. Removing the words and punctuation "(which may be obtained from the regional director (compliance) or the Chief, Tax Processing Center)," from paragraph (a)(1); and

b. Removing the words "acceptable in discretion of ATF officials" from the section heading of paragraph (b)(2).

Par. 59. Paragraph (a) and the first sentence of paragraph (b) of § 70.304 are revised to read as follows:

§ 70.304 Place for filing documents other than returns.

(a) If a document, other than a return, is required to be filed with an ATF office, such document may be hand delivered to such office.

(b) For purposes of this section, a return or document will be considered to be hand carried if it is brought to an ATF supervisor of the ATF office by the person required to file the return or other document, or by the person's agent. * * *

* * * * *

§ 70.306 [Amended]

Par. 60. The fifth sentence of § 70.306(a) is amended by removing the words "Director, the Chief, Tax Processing Center, or a regional director (compliance)" and adding, in substitution, the words "appropriate ATF officer".

§ 70.333 [Amended]

Par. 61. Section 70.333 is amended by removing the words "Director, or to a regional director (compliance) or to the Chief, Tax Processing Center" and adding, in substitution, the words "appropriate ATF officer".

§ 70.411 [Amended]

Par. 62. Section 70.411 is amended by:

a. Removing the words "regional director (compliance), of the ATF region in which operations are to be conducted" and adding, in substitution, the words "appropriate ATF officer" in paragraph (b);

b. By removing the third and fourth sentences and adding, in substitution, the sentence "Supplies of prescribed forms may be obtained from the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153." in the introductory text of paragraph (c); and

c. By removing the phrase "by ATF officers" in paragraph (c)(16).

§§ 70.412 and 70.413 [Amended]

Par. 63. Part 70 is further amended by removing the phrase "with the regional director (compliance)" each place it appears in the following places:

a. The first sentence of § 70.412(a); and

b. Section 70.413((c)(2) introductory text, (d) introductory text and (e).

Par. 64. The third sentence § 70.412(a) is amended by removing the phrase "by the regional director (compliance)" each place it appears.

Par. 65. Paragraph (b) of § 70.413 is revised to read as follows:

§ 70.413 Claims.

* * * * *

(b) *Claims for abatement.* When the tax on distilled spirits, wines, or beer is assessed and the taxpayer thinks that the tax is not due under the law, such taxpayer may file a claim for abatement of the tax on ATF Form 5620.8 with the officer who made demand for the tax. Such officer may call upon the taxpayer to file a bond in double the amount of the tax in order to insure collection of the tax if the claim is rejected. When the claim is acted upon, the taxpayer is notified of the allowance or rejection of the claim. If the claim is rejected, such officer, will initiate action to collect the tax.

* * * * *

Par. 66. The last sentence of § 70.414(a) is revised to read as follows:

§ 70.414 Preparation and filing of claims.

(a) *Distilled spirits at distilled spirits plants.* * * * It is not necessary to file a claim for credit of tax on taxpaid samples taken by appropriate ATF officers from distilled spirits plants, as

the appropriate ATF officer will allow credit, without claim, for tax on such samples.

* * * * *

Par. 67. Section 70.416 is revised to read as follows:

§ 70.416 Application for approval of interlocking directors and officers under section 8 of the Federal Alcohol Administration Act.

Any person who is an officer or director of a corporation now engaged in business as a distiller, rectifier, or blender of distilled spirits, or of an affiliate thereof, who desires to take office in other companies similarly engaged, must obtain permission to do so from the appropriate ATF officer. Applications for such permission to take office must be prepared and filed in accordance with instructions available from the appropriate ATF officer.

Par. 68. Section 70.418 is revised to read as follows:

§ 70.418 Conferences.

Any person desiring a conference with ATF, relative to any matter arising in connection with such person's operations, will be accorded such a conference upon request. No formal requirements are prescribed for such conference.

Par. 69. Section 70.419 is revised to read as follows:

§ 70.419 Representatives.

Title 31 CFR part 8 is applicable to all representatives of the taxpayer, for any conference with ATF.

§ 70.432 [Amended]

Par. 70. Section 70.432 is further amended by:

a. Removing the words "with, and obtaining a permit from, the regional director (compliance) for the region in which operations are to be conducted" from paragraph (a) and adding, in substitution, the words "and obtaining a permit";

b. Removing the words "with the regional director (compliance) for the region in which operations are to be conducted" from paragraph (b); and

c. Removing the words "with the regional director (compliance) for the region in which the customs warehouse is located" from paragraph (d).

Par. 71. The fourth and last sentences of paragraph (a) and the second sentence of paragraph (b) of § 70.433 are revised to read as follows:

§ 70.433 Collection of taxes.

(a) *Tobacco products.* * * * Tax returns, with remittances, are filed by the domestic manufacturer in accordance with instructions on the appropriate ATF form. * * * Tax returns in Puerto Rico, with remittances, are filed in accordance with instructions on the appropriate ATF form.

(b) *Cigarette papers and tubes.* * * * Such returns, with remittances, are filed in accordance with the instructions on the appropriate ATF form. * * *

* * * * *

§ 70.438 [Amended]

Par. 72. Section 70.438 is amended by:

a. Revising the regulatory reference in the first sentence from 70.131(b) to 70.431(b); and

b. Removing the second, third and fourth sentences.

Par. 73. Section 70.471 is revised to read as follows:

§ 70.471 Rulings.

(a) *Requests for rulings.* Any person who is in doubt as to any matter arising in connection with:

(1) Operations or transactions in the alcohol tax area or under the Federal Alcohol Administration Act;

(2) Operations or transactions in the tobacco tax area; or

(3) The taxes relating to machine guns, destructive devices, and certain other firearms imposed by chapter 53 of the Internal Revenue Code; the registration by importers and manufacturers of, and dealers in, such firearms; the registration of such firearms; the licensing of importers and manufacturers of, and dealers in, firearms and ammunition, and collectors of firearms and ammunition curios and relics under chapter 44 of title 18 of the United States Code; the licensing of manufacturers, importers, limited manufacturer of, and dealers in, explosives and issuance of permits for users of explosives under chapter 40 of title 18 of the United States Code; and registration of importers of, and permits to import, arms, ammunition, and implements of war, under section 38 of the Arms Export Control Act of 1976; and the taxes relating to pistols, revolvers, firearms (other than pistols and revolvers), shells and cartridges imposed by chapter 32 of the Internal Revenue Code, may request a ruling thereon by addressing a letter to the appropriate ATF official. A ruling can be issued only from Bureau Headquarters unless the issues involved are clearly covered by currently effective rulings or come within the plain intent of the statutes or regulations.

(b) *Routine requests for information.* Routine requests for information should be addressed to the appropriate ATF officer.

§ 70.481 [Amended]

Par. 74. Paragraph (b)(1) of § 70.481 is amended by removing the phrase "entered into by an authorized ATF official".

Par. 75. Section 70.482 is amended by:

a. Removing paragraphs (d)(1)(ii) through (v);

b. Redesignating paragraph (d)(1)(vi) as paragraph (d)(1)(ii);

c. Revising the last sentence of the redesignated paragraph (d)(1)(ii) and the introductory text of paragraph (e) and the undesignated paragraph after paragrah (e)(3).

(d) Removing the dollar amount "$500" in the undesignated sentence following paragraph (e)(3) and adding, in substitution, the words, including the punctuation, "$50,000. However, such compromise shall be subject to continuing quality review by the Secretary." The revisions read as follows:

§ 70.482 Offers in compromise of liabilities (other than forfeiture) under 26 U.S.C.

* * * * *

(d) * * *

(1) * * *

(ii) * * * When final action has been taken, the proponent is notified of the acceptance or rejection of the offer.

* * * * *

(e) *Record.* Except as otherwise provided in this paragraph, if an offer in compromise is accepted, there shall be placed on file the opinion of counsel for the Bureau with respect to such compromise, with the reason therefor, and including a statement of: * * *

* * * * *

(3) * * *

However, no such opinion shall be required with respect to the offer in compromise of any civil case in which the unpaid amount of tax assessed (including any interest, additional amount, addition to the tax, or assessable penalty is less than $50,000. However, such compromise shall be subject to continuing quality review by the Secretary.

* * * * *

Par. 76. Section 70.483 is revised to read as follows:

§ 70.483 Offers in compromise of violations of Federal Alcohol Administration Act.

The Federal Alcohol Administration Act provides penalties for violations of its provisions. The appropriate ATF officer is authorized to compromise

such liabilities. Persons desiring to submit offers in compromise may submit such offers on Form 5640.2. When the offer is acted upon, the proponent is notified of the acceptance or rejection of the offer. If the offer is rejected, the sum submitted with the offer in compromise is returned to the proponent. If the offer is accepted, the proponent is notified and the case is closed.

§ 70.484 [Amended]

Par. 77. Section 70.484 is amended by removing the words "Director or designated delegate" each place it appears and adding, in substitution, the words "appropriate ATF officer".

Par. 78. The first, third and fourth sentences of § 70.506 are revised to read as follows:

§ 70.506 Execution and filing of claim.

Claims to which this subpart is applicable must be executed on Form 2635 (5620.8) in accordance with the instructions on the form. * * * Claims for credit or refund of taxes collected by district directors of customs, to which the provisions of section 6423, I.R.C., are applicable and which Customs regulations (19 CFR Part 24—Customs Financial and Accounting Procedure) require to be filed with the appropriate ATF officer, must be executed and filed in accordance with applicable Customs regulations and this subpart. The claim must set forth each ground upon which the claim is made in sufficient detail to apprise the appropriate ATF officer of the exact basis therefor. * * *

* * * * *

§ 70.601 [Amended]

Par. 79. Section 70.601 is amended by removing the definition of "Region".

Par. 80. Paragraph (a)(1) of § 70.603 is revised to read as follows:

§ 70.603 Execution and filing of claim.

(a) *General.* (1) Claims under this subpart must be filed on Form 2635 (5620.8).

* * * * *

Par. 81. Section 70.701 is amended by revising paragraph (a)(1) and the last sentence of paragraph (c) to read as follows:

§ 70.701 Rules and regulations.

(a) *Formulation.* (1) Alcohol, tobacco, firearms, and explosives rules take various forms. The most important rules are issued as Treasury decisions, prescribed by the Director, and approved by the Secretary. Other rules may be issued over the signature of the Director or the signature of any appropriate ATF officer. The channeling of rules varies with the circumstances.

Treasury decisions are prepared within the appropriate ATF offices. After approval by the Director, Treasury decisions are forwarded to the Secretary for further consideration and final approval.

* * * * *

(c) *Petition to change rules.* * * * Petitions must be addressed to the Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226.

* * * * *

b. Removing the word "officials" in the first sentence of paragraph (d)(2)(i)(A) and adding, in substitution, the word "officers";

c. Removing the words "Associate Director (Compliance Operations) and adding, in substitution, the words "appropriate ATF officer" in paragraph (d)(2)(iv)(A);

d. Removing the words "Assistant Director" each place they appear and adding, in substitution, the words "appropriate ATF officer" in paragraph (d)(2)(iv)(B); and

e. Removing the words "Assistant Directors" and adding, in substitution, the words "appropriate ATF officers" in paragraph (d)(2)(iv)(C).

§ 70.801 [Amended]

Par. 82. Section 70.801 is amended by removing the words "Chief, Disclosure Branch" and adding, in substitution, the words "Bureau of Alcohol, Tobacco and Firearms".

Par. 83. Section 70.802 is amended by:

a. Removing the words "in the office of the regional director (compliance) who received the offer and in the office of the Assistant Director (Liaison and Public Information)" and adding, in substitution, the words "with the appropriate ATF officer" in the first sentence of paragraph (a);

b. Removing the words "operating permits under 26 U.S.C. 5171, and industrial use permits under 26 U.S.C. 5271" and the commas preceding and following these words, and removing the words "in the offices of regional director (compliance)" in paragraph (b)(1);

c. Removing paragraph (b)(2);

d. Revising paragraph (c) and the second, third and fifth sentences of paragraph (g) to read as follows:

70.802 Rules for disclosure of certain specified matters.

* * * * *

(c) *List of plants and permittees.* Upon request, the appropriate ATF official shall furnish a list of any type of qualified proprietor or permittee if the disclosure is not prohibited by law.

* * * * *

(g) *Comments received in response to a notice of proposed rulemaking.* * * * Comments may be inspected in the Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226. The request to inspect comments must be in writing and signed by the person making the request and should be addressed to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226. * * * Copies of comments (or portions thereof) may be obtained by a written request addressed to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226. * * *

* * * * *

e. Removing the words "Chief, Alcohol and Tobacco Programs Division" and adding, in substitution, the words "appropriate ATF officer" from the first sentence of paragraph (d);

f. Removing the words "in the office of regional director (compliance)" and adding, in substitution the words "from the appropriate ATF officer" in paragraph (e); and

g. Removing the words "Deputy Associate Director (Regulatory Enforcement)" and adding, in substitution, the words "appropriate ATF officer" in paragraph (f).

Par. 84. Section 70.803 is amended by revising the first two sentences of paragraph (c), paragraph (d), paragraph (e)(1), paragraph (e)(2), the last sentence of paragraph (e)(3), paragraphs (e)(4) and (5), and the first two sentences of paragraph (f) to read as follows:

§ 70.803 Requests or demands for disclosure in testimony and in related matters.

* * * * *

(c) *Disclosure of ATF records or information prohibited without prior approval of the appropriate ATF officer.* The disclosure, including the production, of ATF records or information to any person outside the Department of the Treasury or to any court, administrative agency, or other authority, in response to any request or demand for the disclosure of such records or information shall be made only with the prior approval of the appropriate ATF officer. However, nothing in this section restricts the disclosure of ATF records or information for which the appropriate ATF officer has determined that the disclosure is authorized under any provision of statute, Executive order, or regulations, or for which a procedure has been established by the Director.

* * *

(d) *Delegation of authority to determine disclosure and establish procedures.* The appropriate ATF officer is hereby authorized to determine whether or not ATF officers and employees will be permitted to disclose ATF records or information in response to:

(1) A request by any court, administrative agency, or other authority, or by any person, for the disclosure of such records or information; or

(2) A demand for the disclosure of such records or information.

(3) The Director is also authorized to establish such other procedures as he or she may deem necessary with respect to the disclosure of ATF records or information by ATF officers and employees. Any determination by the appropriate ATF officer as to whether ATF records or information will be disclosed, or any procedure established by the Director in connection therewith, must be made in accordance with applicable statutes, Executive orders, regulations, and any instructions that may be issued by the Secretary. Notwithstanding the preceding provisions of this paragraph, the appropriate ATF officer shall, where either the Secretary or such officer deems it appropriate, refer the opposing of a request or demand for disclosure of ATF records or information to the Secretary.

(e) *Procedure in the event of a request or demand for ATF records or information*—(1) *Request procedure.* Any ATF officer or employee who receives a request for ATF records or information, the disposition of which is not covered by a procedure established by the Director, must promptly communicate the contents of the request to the appropriate ATF officer. The officer or employee must await instructions from the appropriate ATF officer concerning the response to the request. * * *

(2) *Demand procedure.* Any ATF officer or employee who is served with a demand for ATF records or information, the disposition of which is not covered by a procedure established by the Director, must promptly, and without awaiting appearance before the court, administrative agency, or other authority, communicate the contents of the demand to the appropriate ATF officer. The ATF officer or employee must await instructions from the appropriate ATF officer concerning the response to the demand. If it is determined by the appropriate ATF officer that the demand should be opposed, the U.S. attorney, his or her assistant, or other appropriate legal representative shall be requested to respectfully inform the court, administrative agency, or other authority that the appropriate ATF officer has instructed the ATF officer or employee to refuse to disclose the ATF records or information sought. If instructions have not been received from the appropriate ATF officer at the time when the ATF officer or employee is required to appear before the court, administrative agency, or other authority in response to the demand, the U.S. attorney, his or her assistant, or other appropriate legal representative must be requested to appear with the ATF officer or employee upon whom the demand has been served and request additional time in which to receive such instructions. In the event the court, administrative agency, or other authority rules adversely with respect to the refusal to disclose the records or information pursuant to the instructions of the appropriate ATF officer, or declines to defer a ruling until instructions from the appropriate ATF officer have been received, the ATF officer or employee upon whom the demand has been served must, pursuant to this section, respectfully decline to disclose the ATF records or information sought.

(3) *Affidavit required for testimony.* * * * The appropriate ATF officer may, upon request and for good cause shown, waive the requirement of this paragraph.

(4) *Time limit for serving request or demand.* The request or demand, together with the affidavit or statement (if required by paragraph (e)(3) of this section), must be served at least 5 working days prior to the scheduled date of testimony or disclosure of records, in order to ensure that the appropriate ATF officer has adequate time to consider whether to grant the request or demand. The appropriate ATF officer may, upon request and for good cause shown, waive the requirement of this paragraph.

(5) *Factors to be considered in determining whether a request or demand will be granted.* The appropriate ATF officer must consider whether granting the request or demand would be appropriate under the relevant rules of procedure and substantive law concerning privilege. Among the requests or demands that will not be granted are those that would, if granted, result in—

(i) The violation of a statute, such as 26 U.S.C. 6103 or 7213, or a rule of procedure, such as the grand jury secrecy rule (F.R.Cr.P. Rule 6(e)), or a specific regulation;

(ii) The disclosure of classified information;

(iii) The disclosure of a confidential source or informant, unless the ATF officer or employee and the source or informant, have no objection;

(iv) The disclosure of investigative records compiled for law enforcement purposes if enforcement proceedings would thereby be impeded, or of investigative techniques and procedures whose effectiveness would thereby be impaired, unless the appropriate ATF officer determines that the administration of justice requires disclosure;

(v) The disclosure of trade secrets without the owner's consent; or

(vi) Testimony in a case in which ATF has no interest, records or other official information.

(f) *State cases.* The appropriate ATF officer, may, in the interest of Federal and State law enforcement, upon receipt of demands or requests of State authorities, and at the expense of the State, authorize employees under their supervision to attend trials and administrative hearings in liquor, tobacco, firearms, or explosives cases in which the State is a party or on behalf of the State in any criminal case, to produce records, and to testify as to facts coming to their knowledge in their official capacities. However, in cases where a defendant in a criminal case requests or demands testimony or the production of ATF records or information, authorization from the appropriate ATF officer is required.

* * *

* * * * *

Signed: April 5, 2001.

Bradley A. Buckles,

Director.

Approved: April 12, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 01–12803 Filed 5–25–01; 8:45 am]

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POSTAL SERVICE

39 CFR Part 111

Preparation Changes for Securing Packages of Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth revised Domestic Mail Manual (DMM) standards that will help ensure packages of Periodicals and Standard Mail maintain their integrity during transportation and postal processing. This final rule reorganizes DMM M020

by prescribing basic standards for preparing and securing all packages and incorporating standards that pertain individually to packages on pallets, packages in sacks, and packages in trays. The most significant changes, in revised DMM M020.1.8, establish new maximum weight and height limits for packages of Periodicals and Standard Mail prepared in sacks. The maximum height (thickness) for Periodicals and Standard Mail packages in sacks depends on whether the cover or outer surface of the piece is coated (glossy) or uncoated stock. Packages of pieces with coated cover stock must not exceed 3 inches in height if secured with string or twine, rubber bands, or shrinkwrap without an additional band. However, if packages of coated pieces are secured with a minimum of two plastic straps or with shrinkwrap plus one or two bands, they must not exceed 6 inches in height. For pieces with uncoated cover stock, packages in sacks must not exceed 8 inches in height, although it is recommended that such packages not exceed 6 inches in height. The maximum weight for all packages of Periodicals and Standard mail prepared in sacks is 20 pounds. This limit is consistent with the maximum weight prescribed for such packages when prepared on pallets and is the maximum weight of packages or parcels that can be processed on the small parcel and bundle sorter (SPBS).

EFFECTIVE DATE: July 1, 2001.

FOR FURTHER INFORMATION CONTACT: Cheryl Beller, 202–268–5166, cbeller1@email.usps.gov.

SUPPLEMENTARY INFORMATION: On February 20, 2001, the Postal Service published for public comment in the **Federal Register** (66 FR 10868–10872) a proposal to require that for Periodicals and Standard Mail prepared in sacks: [1] packages must not weigh more than 20 pounds as provided in new DMM M020.1.8a; [2] packages of pieces with covers of coated stock that are not individually enclosed in an envelope or protective wrapper (e.g., polywrap or uncoated paper wrapper) must not exceed 3 inches in height if secured with string or twine, rubber bands, or only shrinkwrap, and must not exceed 6 inches in height if secured with two plastic straps or shrinkwrap plus one or two bands as provided in new DMM M020.1.8d; and [3] packages of pieces with outer surfaces of uncoated stock must not exceed 8 inches in height, although it is recommended that such packages not exceed 6 inches in height, as provided in new DMM M020.1.8e. It was also proposed that the general packaging standards in DMM M020 be revised by: [1] Eliminating the required banding sequence in DMM M020.2.3b that the first strap be placed around the length and the second around the girth when double-banding packages over 1 inch (redesignated DMM M020.1.4); [2] requiring, for packages of pieces of nonuniform thickness, counter-stacking for sacked and palletized mail to create packages of more uniform thickness as provided in revised DMM M020.1.2; [3] reinforcing and clarifying the requirement that packages over 1 inch in height, whether placed in sacks or on pallets, must be secured with at least two bands, with shrinkwrap, or with shrinkwrap plus one or two bands as provided in DMM M020.1.4d. The deadline for submitting comments on the proposal was March 22, 2001.

Part A below summarizes the revisions to the proposal made in this final rule. Part B sets forth the evaluation of the comments received. It should be noted that although the DMM refers to individual pieces secured together as a unit to a single presort destination as a "package," many in the mailing industry refer to these units of mail as "bundles," and the terms are used interchangeably in the discussion of comments below.

A. Summary of Revisions to the Proposed Rule

Based on comments received in response to the proposed rule, the Postal Service is adopting the standards set forth in the proposed rule with the following changes:

(1) DMM M020.1.2 in the proposed rule has been revised to allow, rather than require, mailers to counter-stack pieces of nonuniform thickness to create packages of more uniform thickness, which are more likely to maintain their integrity during transportation and processing.

(2) DMM M020.1.5b has been revised in the final rule to eliminate a required sequence for applying shrinkwrap plus a strap to packages on pallets. The revised language is consistent with DMM M020.1.4b, M020.1.8d, and M020.1.8e(2) in this final rule.

(3) DMM M020.1.8f has been revised in the final rule to clarify that "uncoated stock" also refers to pieces with coated covers that are individually enclosed in a cover or mailing wrapper of uncoated stock such as an envelope, sleeve, protective cover, partial wrapper, or polybag, and pieces with outer surfaces composed of material other than paper (e.g., plastic, cloth, fiberboard, or metal). As such, packages of such pieces prepared in sacks may be up to 8 inches high (thick). This section is also revised in the final rule to clarify that although packages of pieces of uncoated stock may be up to 8 inches high, it is recommended that such packages not exceed 6 inches in height.

DMM M020.1.8b in the proposed rule, which repeated general language already included in M020.1.4, has been deleted from the final rule. DMM M020.1.8d(3) and M020.8d(4) in the proposed rule contained standards for measuring packages of pieces with coated cover stock. These standards were repeated in DMM M020.1.8e(3) and M020.8e(4) for pieces with uncoated cover stock. Therefore, these items are deleted and their content, applying to all packages of Periodicals and Standard Mail prepared in sacks, is redesignated in the final rule as M020.8c and M020.8d.

B. Evaluation of Comments Received

1. General

Twelve comments were received. All commenters were generally supportive of the efforts undertaken by the Postal Service and mailing industry to improve the processing, transporting, and handling of the mail, and two commenters indicated support for all of the changes in the proposed rule.

One commenter stated that the problem of broken bundles is not new. The commenter noted that over the past 15 years, the Postal Service and outside consultants identified "root causes" for bundle breakage but took no serious actions to resolve the problem prior to the efforts of the Mailers Technical Advisory Committee (MTAC) Package Integrity Work Group to collect breakage data for live mail and to conduct a controlled test for sacked mail. The proposed rule is intended to address these concerns by updating and clarifying DMM M020 standards.

One commenter representing Periodicals mailers has worked with the Postal Service to reduce the incidence and costs of bundle breakage. As part of the Periodicals Operations Review Team and through MTAC, the commenter and members observed an alarming rate of bundle breakage for Periodicals and Standard Mail flats and worked with the Postal Service to understand root causes and identify changes to improve integrity.

One commenter expressed support for the targeted approach to a cost-effective solution to the bundle breakage problem that will not overburden publishers and printers and stated that the proposal will help in the short term. The commenter also believes that a long-term solution is needed.

One commenter favors cost-effective solutions to the bundle breakage

problem and wants the Postal Service to capture savings identified in conjunction with the Periodicals Operations Review Team in the recent rate case, but believes the proposed changes could potentially impose a huge financial burden on customers.

One commenter representing smaller-volume Periodicals publications, with circulation generally under 100,000 and mailings prepared primarily in sacks rather than on pallets, recognizes bundle breakage is a problem. This commenter is concerned that the proposed rule "is a costly (to mailers) stopgap measure that may not be effective in accomplishing its stated purpose of reducing USPS handling costs" but expects the proposal to be implemented and members to adapt. This commenter also believes that additional steps the Postal Service is taking, such as educating mailers, improving induction methods, and enabling customers to prepare flats in a manner that supports processing on flat sorting machines (FSMs), are more likely than the proposed changes to cause a meaningful change in processing costs.

The Postal Service and mailing industry have been working together on several fronts to address the serious issue of bundle breakage and its associated costs, which are ultimately reflected in postal rates. As noted, this problem is not new and this final rule is but one of several ongoing efforts to make long-needed changes that will have an overall positive effect on bundle breakage and flats processing costs and efficiencies in general. The MTAC Package Integrity Work Group was created to address the bundle breakage problem identified by the Periodicals Operations Review Team. This final rule represents one step toward achieving incremental improvements while long-term solutions are explored. Various concerns raised by commenters about specific provisions of DMM M020 that are contained in the proposed rule are described and responded to below.

2. Counter-Stacking

Two commenters questioned whether the proposed requirement to counter-stack pieces of nonuniform thickness to create packages of more uniform thickness will increase carrier and clerk costs to re-orient the pieces before sorting them by a greater amount than the savings that might result from reduced bundle breakage costs.

One commenter requested further clarification of the situations that would require counter-stacking to avoid different interpretations by acceptance personnel and mailers. It was suggested that a clearer definition of "non-uniform thickness" be provided, possibly including a measurement, such as "if there is more than .25″ difference in thickness from top to bottom (thinnest to thickest)."

Based on the comments and upon further review of this issue, the Postal Service has determined that re-orienting counter-stacked pieces to prep flats for delivery or to run on a flat sorting machine (e.g., an AFSM 100) is time consuming and, in many situations, may add to processing costs. Because it is difficult to describe objectively each situation when it would be appropriate to counter-stack pieces to maintain package integrity, M020.1.2 in this final rule has been revised to recommend, rather than require, counter-stacking to create more uniform packages. In addition, language has been added to clarify that mailers should limit the use of counter-stacking to those situations when it is expected to actually improve the uniformity and stability of a package. For example, some postal processing facilities have reported that they receive packages from mailers as small as 1 inch high that contain three or four counter-stacked groups. These small counter-stacked groups have little, if any, impact on the integrity of the package and make it difficult for postal personnel to re-orient the mail to run on a flat sorting machine or for delivery.

3. Twenty-Pound Maximum Weight for Packages in Sacks

Two commenters expressed their approval of the proposal to limit the weight of Periodicals and Standard Mail packages prepared in sacks to 20 pounds and noted that packages that exceed this weight contribute to bundle breakage and cannot be processed on the SPBS. Furthermore, one commenter stated that the 20-pound maximum for packages in sacks is neither unreasonable nor burdensome and is consistent with the standard for packages on pallets.

The 20-pound maximum package weight is retained in this final rule.

4. Requirement to Shrinkwrap Packages on Bulk Mail Center (BMC) Pallets

Two commenters indicated that mailers could move more Standard Mail out of sacks and onto pallets, and thereby reduce package breakage rates for this mail, if they were permitted to use banding instead of shrinkwrap to secure packages on BMC pallets. One commenter noted that the processing of bundles on BMC parcel sorting machines (PSMs) is abusive and normal packaging may not withstand this processing and recommended that the Postal Service identify the BMCs that do not process bundles on their PSMs. Mailers should then be permitted to use banding instead of shrinkwrap for bundles on BMC pallets sorted to those facilities.

One commenter secures packages of Standard Mail with bands around the length and girth and reported receiving few if any complaints about breakage. This mailer must sack mail that remains after 5-digit and SCF pallets are prepared because of the requirement to shrinkwrap packages on BMC pallets. These sacks are often placed on BMC pallets. This commenter indicated that most letter shops do not have the ability to shrinkwrap packages and could move approximately 80 percent of packages currently prepared in sacks onto pallets if the Postal Service would allow banded packages on BMC pallets.

In conjunction with other efforts focused on moving mail out of sacks to reduce the potential for package breakage and the costs associated with such breakage, the Postal Service will explore potential opportunities to place packages secured with material other than shrinkwrap onto BMC pallets. However, before any final decision is made, the impact that such a change could have on processing costs and service must be fully evaluated. For example, candidate packages may currently be in carrier route-through ADC-level sacks and some analysis would be required to determine the potential difference in container and package handling costs if these packages were to move out of more finely sorted sacks and onto BMC pallets. The Postal Service must also assess the potential impact on package breakage rates resulting from more package handlings but fewer sack handlings, particularly for carrier route, 5-digit, and 3-digit packages, and how this could affect service considering that the recovered pieces must generally be transported to the parent plant for appropriate piece distribution (e.g., on a flat sorting machine). Finally, the methods used by BMCs to process packages on BMC pallets must be reviewed to determine if service would be negatively impacted when compared to the service the mail would receive if prepared in sacks. Sacked mail is processed by BMCs to plants or delivery units where the contents of the sacks are distributed (e.g., are packages at BMCs processed on parcel sorting machines or SPBSs; what sort schemes are used). If a decision is made to expand the type(s) of package securing methods that are acceptable for mail on BMC pallets, it is possible that the standards could be somewhat more restrictive than the current standards for

mail prepared on pallets. For example, because data collected by the MTAC Package Integrity Work Group during live mail tests showed that mail secured with rubber bands had the highest breakage rates for palletized packages (2.1 percent), restrictions could be placed on this type of mail. In summary, no changes to the standards for packages on BMC pallets are included in this final rule.

5. Clarification of "Uncoated Stock"

Two commenters requested that proposed DMM M020.1.8d be reworded to clarify that "uncoated" pieces that may be prepared in packages up to 8 inches high includes pieces with coated covers that have been enclosed in a protective cover or mailing wrapper as described in DMM C200.1.7. One commenter asked that the Postal Service clarify that individually polywrapped pieces fall into the category of "uncoated" pieces, whether or not the pieces inside the wrapper have coated covers.

This final rule clarifies in DMM M020.1.8e that the term "uncoated stock" includes pieces with coated covers that are individually enclosed in a cover or mailing wrapper of uncoated stock such as an envelope, sleeve, protective cover, partial wrapper, or polywrap, and also includes pieces with outer surfaces composed of material other than paper (e.g., plastic, cloth, fiberboard, or metal). The final rule also specifies that packages of such pieces must not exceed 8 inches in height.

6. Maximum Height of Packages of Uncoated Pieces .

One commenter prepares Periodicals that have a low height-to-weight ratio in firm bundles that are shrinkwrapped and strapped. These bundles may occasionally exceed the proposed uncoated pieces maximum package height of 8 inches, possibly reaching 10 inches in height. The mailer has not received any feedback about broken bundles and requests that the maximum height for uncoated packages in sacks be raised from 8 inches to 10 inches. If the maximum height will not be raised, clarification was requested as to whether current DMM M020.1.6a (redesignated as M020.1.7a in this final rule) allows payment of one piece rate if two firm bundles are created to avoid exceeding the maximum height limit. In addition, this commenter asked that the final rule include a clarification of the difference between the recommended maximum height of 6 inches and the required maximum height of 8 inches for packages of uncoated pieces prepared in sacks.

The Postal Service believes that concerns about bundle integrity and successful SPBS processing are compelling reasons to limit the maximum height of packages of uncoated pieces in sacks to 8 inches. The 20-pound maximum weight ensures packages are compatible with SPBS processing and it is likely that most packages that exceed 8 inches, when measured at the lowest point as permitted by the new standards, would also exceed 20 pounds. Exceptions are likely to be pieces similar to the DVDs in plastic containers that were included in the controlled test that are less dense than printed material, including circulars, magazines, newspapers, catalogs, and so forth. When such lightweight but thick items are prepared in tall packages (e.g., packages taller than 8 inches), the packages are more likely to break during transportation or processing or to lean and tumble into the wrong container as they are sorted on the SPBS.

The maximum package height of 8 inches for packages of uncoated pieces prepared in sacks is retained in this final rule. DMM M020.1.8.f(1) has been revised to consolidate the maximum permitted height of 8 inches and the recommended maximum height of 6 inches for packages of uncoated pieces prepared in sacks. We believe that this will clarify that such packages may be up to 8 inches in height but the Postal Service wants to encourage mailers to limit these packages to a maximum height of 6 inches. This recommendation is intended to help ensure that bundle integrity will be maintained while recognizing that some mailpieces can be prepared in taller packages (e.g., up to 8 inches high and weighing up to 20 pounds) that can be successfully processed by the Postal Service.

If a firm bundle must be split in two to meet the new height restrictions, each firm bundle is subject to a separate per piece charge to reflect the handling of two pieces by the Postal Service. For purposes of rate eligibility, pieces prepared as one firm bundle under current standards that must be prepared as two firm bundles due to the height restrictions in this final rule would pay two per piece charges, reflecting the fact the Postal Service is processing and delivering two pieces. Under DMM M020.1.6a (redesignated M020.1.7a) these would also count as two addressed pieces in determining whether there are six or more pieces to a presort destination when determining Periodicals rate eligibility.

7. Coated Stock and Breakage

Two commenters agreed that coated stock does contribute to package breakage. One stated that there is no question that pieces with coated cover stock contribute to bundle breakage and that it makes sense to reduce the maximum height to 6 inches for banded or strapped bundles.

One commenter confirmed that the highest breakage rate occurred for sacked flats with glossy covers of coated stock, and bundles 4 to 6 inches high broke 42 to 100 percent of the time in the MTAC Package Integrity Work Group controlled test, before the bundles were even handled individually. This commenter stated that these high breakage rates "cause significant costs (in the form of additional piece handlings and machine slowdowns and stoppages) borne by all mailers of flats." In the controlled test, adding a plastic strap to shrinkwrapped packages reduced the breakage rate by 25 percent; packages with two plastic straps had a breakage rate 15 percent lower than the rate for shrinkwrapped packages; and reducing the size of packages by 1 inch reduced breakage by approximately 14 percent.

The key focus of this final rule is to reduce breakage rates for packages of pieces with coated cover stock.

8. Impact of Limiting Package Height

Seven commenters stated that the proposal to limit, for Periodicals and Standard Mail in sacks, the size of packages of pieces with coated stock secured with rubber bands, string or twine, or shrinkwrap without a band to 3 inches in height will increase the number of packages that some mailers will prepare.

One commenter stated that the creation of more packages will add to Postal Service mail processing costs, which is not in the best interests of the mailing industry or the Postal Service, and another stated that the proposed rule could increase by nearly 5 percent the number of bundles that one of its members produces.

One commenter suggested that the proposal will cause mailers to prepare a greater number of packages that are more difficult to open, which will change processing costs. The commenter also stated they would be more positive about the changes if the Postal Service had attempted to quantify added costs associated with the additional packages, such as those related to Postal Service-allied labor costs for opening packages and prepping mail for automated flat sorting machines.

One commenter noted that a Postal Service representative had stated that "over 30 percent of the USPS handling and processing costs for flats were depackaging" and that the proposal would be contrary to the objective of creating fewer packages as well as fewer sacks. This commenter also stated that preparing smaller packages secured only with shrinkwrap for sacked mail will slow production and add to mailer costs. The mailer will need to have list processors provide bundle separation marks for production lines that do not have an "auto slow down" control to maximize bundle size and machine speed. For one customer, some packages for sacked mailings may contain as few as two pieces to meet the 3-inch height limit.

One commenter questions whether the Postal Service documented or measured the cost of handling the additional packages that will be produced if the proposed changes are adopted and asks if the Postal Service has a metric to ensure that the cost reductions for breakage materialize as a result of the proposed rule.

Analysis of the MTAC Package Integrity Work Group test data shows that reducing the size of "high-risk" packages, specifically packages of pieces with coated cover stock prepared in sacks, will result in significant savings. In the controlled package integrity test, the workgroup found that 75 percent of 4-inch and 6-inch packages of coated pieces entered at an origin facility broke even before the packages were handled individually out of the mailer-prepared sacks. Based upon additional analysis of test data for both the live mail and controlled tests, the Postal Service believes that cutting the size of a large package of coated flats in half would reduce bundle breakage for the affected mail by approximately 50 percent.

Using the same methodology that the Postal Rate Commission (PRC) used in Docket No. R2000–1 to analyze this cost trade-off, we found that cutting the average package size for Periodicals and Standard Mail high-risk flats in half (e.g., from an average of 20 down to 10 pieces per package and from 15 down to 7.5 pieces per package) may reduce average mail processing costs for these flats by as much as 0.4 to 0.7 cents per piece. Furthermore, the PRC's methodology does not take into account reductions in allied labor costs that may result from reduced package breakage. The focus of this final rule is to significantly reduce package breakage using current packaging methods. It is not expected that packages prepared by mailers will be any more difficult to open as a result of these changes. It is expected, as noted previously, that the Postal Service will have to process some additional packages that are more likely to maintain their integrity and that packaging in general for mail prepared both in sacks and on pallets will improve as mailers use current methods more effectively.

The Postal Service does not have a metric to ensure that the projected cost reductions materialize as a result of this final rule. After this final rule has been in effect for several months, in order to quantify whether package breakage rates have decreased, the Postal Service plans to collect additional data for live mail in the same manner as originally collected by the MTAC Package Integrity Work Group in 1999.

9. Clarification of Rate Eligibility

One commenter stated that because of the 3-inch package height maximum for some mail, packages of large Periodicals publications could sometimes contain fewer than six pieces. This commenter requested that the final rule clarify that rate eligibility standards for such packages will be satisfied as long as there are a minimum of six addressed pieces for the presort level, even if they are prepared in more than one physical package due to the maximum height limit.

Under the provisions of current DMM M020.1.6a, an individual package may be prepared with fewer than the minimum number of pieces required by the standards for the rate claimed without loss of rate eligibility if a greater number of pieces would exceed the maximum physical size for a package and the total number of pieces for that presort destination meets the minimum volume standard (e.g., 30 pieces are available to meet a 10-piece minimum, but a package of eight pieces is 6 inches thick). In the proposed rule, this section was redesignated as M020.1.7, but was not printed. The complete contents of redesignated M020.1.7 are published in this final rule to clarify that rate eligibility for smaller packages prepared under the new height limits is based on the total number of pieces for the presort destination.

10. Strappers

Seven commenters indicated that many printers use only shrinkwrap to secure packages and have removed strapping from most of their production lines. Three commenters stated that this allows lines to run faster, more efficiently, and is less costly and that adding strappers to their lines would be expensive.

One commenter stated that most of its mail is sacked due to volume and densities of publications and most mail is also of coated stock. This mailer would choose the option of reducing package size to a 3-inch maximum height instead of adding strapping equipment but is concerned that it will add costs by slowing bindery mailing equipment production speeds, adding material, and increasing labor. Because of the competitive market, the mailer would have to absorb additional costs and would like instead to test heavier shrinkwrap that could be used without an additional strap on packages over 3 inches that are prepared in sacks. This would add some material costs but less than those resulting from the proposed changes. This commenter indicated that the alternative of adding additional strapping equipment that would permit larger packages would require a capital investment of over $500,000 for the strappers and building expansions to accommodate the additional equipment. Currently, this mailer uses only banding to secure packages of individually polywrapped pieces. This commenter also suggested that the Postal Service allow a variety of packaging methods as long as mailers first submit packages for testing and approval.

One commenter stated that instead of adding strappers, the maximum package height would be reduced and the added cost for changing the size of some packages would be approximately $250,000. The commenter prepares sacks and pallets and could set the parameters for only their sacked mail to a maximum package height of 3 inches. For some mail, this could double the number of packages and impact their costs and productivity. This commenter suggests that the Postal Service, in conjunction with the printing industry, test and determine formulations and mil strength of polyfilm that could be used instead of an additional strap to secure packages of coated pieces that are taller then 3 inches.

One commenter stated it would have to spend millions of dollars to purchase and install new strappers and would lose millions of dollars in maintenance, downtime, and lower productivity. It requested that mailers be given the option of selecting the securing method they prefer that makes the most sense for their operation and their customers.

One commenter stated that additional strapping requirements will add to printers' and publishers' mail preparation costs and the Postal Service must capture savings from the proposed standards or the change will have a net negative impact on publishers and printers.

One commenter suggested that, as a next step, they would like to test heavier

shrinkwrap (e.g., 2 to 3 mils) or high-performance formulations that may be substituted for the addition of a strap to shrinkwrapped packages or bundles of glossy mail in sacks that exceed 3 inches. This commenter stated that most of the mailing industry uses film that is 1.25 to 1.5 mils thick.

One commenter stated that prohibiting packages of pieces with coated stock that exceed 3 inches unless they are double-strapped or strapped with shrinkwrap is burdensome and may be unreasonable because printers have moved away from strapping to shrinkwrap. The best solution may be to require heavier shrinkwrap.

The Postal Service developed the proposed rule in conjunction with a joint Postal Service/industry effort to reduce package breakage and lower Postal Service operational costs by improving mailer packaging and Postal Service processing of such mail. Data describing the current condition of packages of Periodicals non-letters and Standard Mail flats was collected and analyzed by the workgroup to identify changes that could be made to achieve these results. MTAC workgroup members generally agreed that an analysis of test data clearly pointed to a need to either improve the methods for securing tall packages of pieces of coated stock or reduce the size of such packages if securing methods are not improved. Workgroup members included major mailers that have eliminated banding from most of their production lines and whose operations will be impacted by these changes. These participants indicated that they did not expect their companies to purchase new strapping equipment that would allow them to create 6-inch packages of coated pieces. Instead, they were likely to use current packaging materials, such as shrinkwrap, and to limit the height of packages of coated pieces to be placed in sacks. Several of these participants indicated that many major mailers use shrinkwrap material that is from 0.75 to 1.25 mils thick to secure palletized and sacked packages and that, based on test data, this polywrap is not effective without the addition of a strap in maintaining the integrity of tall packages of coated pieces when they are prepared in sacks. There was also general, although reluctant, agreement that the test data suggested that the proposed packaging changes probably offered the best near-term potential to achieve cost savings from reduced package breakage for mail in sacks. However, other efforts currently under way to move more mail out of sacks and onto pallets, to improve Postal Service processing of packages, and to find alternatives to current preparation methods were seen as offering the greatest long-term potential to reduce the costs associated with package breakage. While the Postal Service will continue pursuing these other efforts, we do not believe that we can afford to delay steps that eliminate from the sacked mail environment those packages that have been clearly identified as the most likely to break.

Some perspective on what might be involved in establishing a certification program for packaging materials and methods can be gained by looking at the development of the process that led to the current standards for certifying polywrap films for automation rate flats. The Postal Service believes that a program to certify packaging materials and methods could be even more complex and costly to implement because of the many variables related to package contents (mailpiece characteristics) and size that would have to be tested at many mailer locations using a broad range of packaging materials and securing methods. At this time, the Postal Service does not have resources to apply to such an effort and believes that the combination of efforts to reduce package breakage currently under way, including better feedback to customers when package integrity problems are identified during postal processing, offer the most promise for improvements.

The Postal Service is open to future discussions regarding industry testing and recommendations for some specific polyfilm formulations that may be used successfully for taller, heavier packages of pieces of coated stock. In assessing alternatives to the materials used today by large printers who probably prepare the majority of their mail on pallets, the overall cost of applying this material to packages on pallets as well as in sacks must also be considered. If mailers were to use a heavy polyfilm that maintains the integrity of the worst mail they produce (i.e., tall packages of coated pieces in sacks) on all of their mail, including mail on pallets, mailer application costs and Postal Service removal and disposal costs could also increase.

To mitigate the impact of this final rule on overall costs, mailers who prepare both palletized and sacked mail need to set different package height maximums for each type of mail when presorting their mailing lists. Several major presort software vendors have stated that their software provides users with the ability to do this.

11. Sequence for Material Application

One commenter has strappers in some processes that apply a single strap around the girth of a package due to package size or an off-balance bind on the mailpiece. The strap is applied after the shrinkwrap, and the commenter therefore suggests that DMM M020.1.5b read "Packages may be secured with heavy gauge shrinkwrap AND plastic banding, only shrink wrap, or only banding material if they can stay together during normal processing." The proposal in DMM M020.1.5b stated that "Packages may be secured with heavy-gauge shrinkwrap OVER plastic * * *rdquo;.

To be consistent with DMM M020.1.4b, M020.1.8d, and M020.1.8e(2), the language in M020.1.5b has been changed in this final rule to eliminate a required sequence for applying shrinkwrap plus a strap to packages on pallets.

12. Flat Trays or Other Containers as an Alternative to Sacks

Three commenters stated that the Postal Service must identify a container that can be used instead of sacks for mail that cannot be placed on pallets.

One commenter noted that the Postal Service must urgently pursue alternatives to sacking for those short-run publications that have insufficient density or volume to be palletized. These publications must be placed in sacks, which creates added costs at printers and results in damage from handling by the Postal Service. This commenter stated that some Periodicals have moved from sacks to cartons on pallets under local arrangements.

One commenter encourages the Postal Service to develop a cost-effective alternative to sacking that is compatible with the flats automation strategy for small volume mailers who may not be able to palletize.

One commenter stated that mail secured with straps and placed in sacks often becomes damaged when entered into the SPBS system by being crushed by other mail. Crushing can create broken bundles and also make the pieces incompatible with Postal Service automated flat-sorting machines. This commenter also stated that removing banding from bundles can be dangerous to USPS employees and that for these reasons mailers should be permitted to place Periodicals and Standard Mail flats in flat trays instead of sacks, preferably unbundled in a tray-based preparation like that currently offered for First-Class Mail. This commenter also suggested that placing flats in trays that can be palletized and are

compatible with Postal Service tray management systems (TMS) will save costs by eliminating processing of bundles on the SPBS and making flats more compatible with processing on the AFSM 100 or FSM 1000. The Postal Service could limit transportation and handling of these trays by permitting them only for palletized mail drop shipped by mailers to specified entry levels.

The Postal Service must evaluate the broad impact of a move from sacks to flat trays or another type of alternate container for Periodicals non-letters and Standard Mail flats. The potential for improved package integrity must be weighed against many other factors. In moving from sacks to flat trays, we would expect to see a decline in cube utilization. Compared to packages of flats prepared on pallets or in sacks, flat trays often contain a significant amount of unused space within and between trays for both mailers/consolidators and the Postal Service. For example, a thin Periodical with 24 pieces to a destination placed in a flat tray might result in a tray that is only one-quarter full. For mail that must be transported beyond the origin plant service area, this reduced cube utilization is likely to result in less volume per vehicle and increased costs.

Another consideration is the processing of containers sorted to destinations outside of the service area of the origin plant. Currently, sacked mail is processed efficiently through the BMCs on the sack sorter machines (SSMs), and sufficient SSM capacity exists. Flat trays, however, are sorted manually in the BMCs, and if sacks converted to trays this processing operation could quickly become a bottleneck due to lower productivity, less depth of sort, and greater space requirements, again increasing costs.

For some Periodicals and Standard Mail there would not be a one-to-one trade-off of sacks for trays. For example, mail for one presort destination that today fills a sack may have to be placed in two trays. This change would increase the number of container handlings and associated costs.

There is also the issue of lack of flat tray availability given the increased demand for flat trays to accommodate incoming secondary processing on the AFSM 100s. The Postal Service does not have money in its budget to purchase additional large quantities of flat trays for mailers to use instead of sacks.

Finally, offering a tray-based preparation option for Periodicals and Standard Mail with an optional 5-digit sort (mirroring the current option for First-Class flats) would significantly increase the volume requiring incoming primary piece processing to sort mail to the 5-digit level on the AFSM 100s and FSM 1000s. This volume was not anticipated in the equipment deployment and additional flat sorting machines would need to be purchased and deployed to handle the additional incoming primary volume.

The Postal Service recognizes that there may be some future opportunities to explore alternatives to sacks in some situations; however, this final rule does not contain any changes to current sacking requirements.

13. Alternate Flats Preparation Test

Six commenters indicated that they are aware that the Postal Service is exploring alternate mail preparation for flats to reduce or eliminate packaging of palletized mail to reduce Postal Service costs.

One commenter suggests that alternate preparation could reduce the bundle breakage problem in addition to reducing allied labor costs associated with opening packages.

One commenter who is participating in the test stated that mailers do not want to make capital investments to improve packaging now when investments may be required in the near future for different preparation methods. Another test participant does not think it would be prudent to make major capital investments in bindery packaging and material handling equipment until the Postal Service flats automation strategy is finalized.

One commenter stated that the Postal Service should examine whether a "bundle-less" preparation, such as that being tested for pallets, could be extended to sacked mailings.

The Postal Service is partnering with the mailing industry to test methods for preparing flat-sized mail in a manner that best supports current and future flats processing and is examining the potential cost savings opportunities of eliminating or reducing packages on pallets. The test parameters were announced in the February 22, 2001, issue of the Postal Bulletin. It is because of the many other efforts, such as the alternate flats preparation test, currently under way to improve flats processing that the Postal Service is implementing this final rule. Because new or modified manufacturing processes may prove to be justified in the future, the revised standards were designed to reduce overall costs now without requiring mailers to change their manufacturing methods, and all current methods of securing packages will continue to be acceptable.

14. Maximum Package Weight as Proxy for Maximum Height

One mailer indicated that presort software currently controls package size by weight, not height, and the Postal Service should develop a standard weight-height conversion table that allows mailers to comply with the proposed rule by using weight as a proxy for height. This flexibility would facilitate compliance in the shortest time frame with less disruption to the industry.

The data collected relating to bundle breakage in the live mail test and the resulting proposed standards do not include information to correlate height to weight. Although some data is available from the controlled test to develop a height-to-weight relationship, it would apply only to the test pieces. It is difficult to develop a standard conversion chart that would consistently result in packages meeting the proposed height standards due to the variations in size, composition, method of binding, paper stock, inserts, and so forth for flat-size mail. For example, packages of a dense perfect-bound publication printed on heavyweight coated paper are likely to have a very different weight-to-height relationship than packages of an enveloped piece containing a lightweight bulky insert. It would be more feasible and useful for mailers to use actual sample mailpieces representing their regular mix of mail to create their own weight-to-height conversion tables. Presort software does have the ability to control package height using the thickness of an average piece. This final rule contains only maximum height standards for packages of Periodicals and Standard Mail prepared in sacks.

15. Clarification of "Football-Shaped" Packages

One commenter questioned whether the 9 inch by 12 inch envelopes in the controlled test were considered to represent the norm for enveloped flats. This mail experienced an approximate 58 percent breakage rate due to an insert in the center that caused the larger packages to become shaped like a football.

No conclusions were drawn regarding how representative the test piece might be of the general flats mailstream. The only conclusion that was drawn was that counter-stacking is unlikely to create stable tall packages of pieces that are thicker in the center than they are on the edges and mailers may instead need to limit the package size of such

pieces or add additional banding to the packages.

16. Pallets

Three commenters discussed potential opportunities for moving more mail from sacks to pallets.

One commenter indicated that preparing lighter-weight pallets, (e.g., 150 pounds) would help move mail out of sacks, while another had mixed feelings about preparing lighter-weight pallets as a solution for eliminating sacks. Although 250-pound pallets may result in deeper penetration and better delivery for some mail, they may cause staging problems in plants and extra material handling.

One commenter suggested a 5-digit pallet discount to encourage mail on direct 5-digit pallets that are low cost for the Postal Service. These direct pallets would also substantially reduce the likelihood of bundle breakage. The commenter noted that Postal Service rate case witnesses considered the proposal premature but "did indicate a general interest . . . in encouraging palletization and a specific interest in having additional direct pallets." Because the MTAC Package Integrity Work Group, during its live mail test, found packages in sacks broke more than 10 times as frequently as packages on pallets, the commenter suggested that the Postal Service investigate ways to modify postage rates and mail preparation standards to encourage mailers to increase palletization. Furthermore, standards should be considered to allow residual mail, currently in sacks, to be merged onto pallets. Bundle breakage is strongly related to the number of handlings a bundle receives. Bundles on more finely presorted pallets will receive fewer handlings and mailers should be encouraged to palletize and drop ship pallets.

As noted above, there is a difference of opinion within the mailing industry as to whether the pallet minimum should be lowered. The DMM currently contains provisions that allow mailers to prepare pallets that weigh less than 250 pounds when those pallets are drop shipped to the destination sectional center facility (DSCF) or destination delivery unit (DDU). Mailers need to obtain written authorization from the processing and distribution manager of the entry facility for DSCF entry of lightweight pallets. There are no data showing that lowering the minimum pallet weight for mail that is not drop shipped to these destinations would provide the Postal Service with savings that offset the additional costs resulting from increased pallet handlings and decreased cube utilization on postal transportation. There are no plans at this time to lower minimum pallet weights.

The pursuit of a discount for mail on 5-digit pallets is beyond the scope of this rule. Any request for domestic rate changes must be submitted by the Postal Service to the Postal Rate Commission.

Mailers should note that several options currently available have been shown to increase palletization levels. For example, mailers may choose not to prepare optional 3-digit pallets or, if they do prepare such pallets, they may use package reallocation to protect the SCF pallet level if their software is PAVE-certified to support this option. In addition, mailers might consider lowering the minimum pallet weight, possibly to as low as 250 pounds, for only their last pallet level (e.g., ADC for Periodicals or ASF/BMC for Standard Mail) to keep mail from falling to sacks. The Postal Service is aware that many mailers do not take advantage of these opportunities.

17. Improvements to SPBS Feed Systems

Two commenters commended the Postal Service for its efforts to reduce stress on bundles through equipment modifications. One commenter encouraged a continued search for gentler handling processes, such as those associated with the SPBS feed systems, while the other supported Postal Service efforts to improve package sorting related to SPBS feed systems as a means to avoid rehandling costs.

In addition to changes to the SPBS feed systems to mitigate bundle breakage, the Postal Service has modified broken bundle recovery methods to reduce costs. A new Automatic Package Processing System (APPS), the next generation SPBS, is also being developed. This new machine is designed to take bulk-loaded parcels or bundles and separate them into an evenly spaced singulated stream for scanning and sorting. This process should be more gentle to flats bundles. However, regardless of changes to Postal Service processing, mailers must take necessary steps to ensure that bundles retain their integrity to the point where they are unloaded on postal processing equipment and opened for distribution of the contents.

18. Feedback

One commenter stated that the Postal Service has not done a good job of notifying mailers when packages were improperly prepared and fell apart during processing. If mailers had been informed regularly of problems, they could have incorporated packaging alternatives or fine-tuned methods over time that would not be as costly as the proposed changes.

The MTAC Mail Irregularity Feedback Work Group was formed in response to comments that the MTAC Package Integrity Work Group received from customers indicating that they were not receiving feedback about broken bundles and therefore were unaware of problems or any need to change their packaging methods. In order to improve the quality of business mailings, the Postal Service is revising the irregularity reporting and correction process. More information about these changes, including the revised PS Form 3749, Mail Irregularity Report, can be found in Postal Bulletin 22043 (2–8–01) and in the February 2001 Memo to Mailers. This process will be used to report serious quality issues such as broken bundles, unreadable barcodes, mislabeled trays, and so on, to mailers and mail preparers and also includes a mechanism to address disposition of reported problems.

19. Implementation Date

One commenter indicated that some changes in the proposed rule require software programming changes. This mailer requires 45 to 60 days to program and test new enhancements that allow different package sizes for sacked and palletized mail and proposed an effective date some time between July 15 and September 1, 2001.

Based on the comments received and discussions with other mailers and presort software vendors regarding implementation of software and manufacturing changes to accommodate the final rule, the Postal Service has determined to place all provisions of this final rule into effect on July 1, 2001.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR Part 111).

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual as set forth below:

M Mail Preparation and Sortation

* * * * *

M020 Packages

1.0 BASIC STANDARDS

[Amend 1.1 by replacing the reference to 1.6 with 1.2 to read as follows:]

1.1 Facing

Except as noted in 1.2, all pieces in a package must be "faced" (i.e., arranged with the addresses in the same read direction), with an address visible on the top piece.

[Amend the heading of 1.2 and revise the text to clarify when counter-stacking of pieces of irregular thickness is appropriate to read as follows:]

1.2 Counter-Stacking—Sacked and Palletized Mail

Packages of flats and other pieces of nonuniform thickness may be prepared by counter-stacking under these conditions:

a. Counter-stacking should be used only to create packages of more uniform thickness that are more likely to maintain their integrity during transportation and processing.

b. Counter-stacking is appropriate for saddle-stitched mailpieces and pieces where one edge is thicker than other edges or one corner is thicker than other corners.

c. When counter-stacking, pieces must all have addresses facing up and be divided into no more than four approximately equal groups, with each group rotated 180 degrees from the preceding and succeeding group(s); prepare as few groups as possible to create a bundle of uniform thickness.

d. Counter-stacked groups within a package should be as thick as possible, generally at least 1 inch thick.

e. When pieces are nonuniform in thickness because they are thicker in the center instead of along an edge or corner, counter-stacking will generally not result in a package of uniform thickness (i.e., a football-shaped package would be created). Instead of counter-stacking such pieces, limit the height (thickness) of the package to 3 to 6 inches to ensure the package will stay together during normal transit and handling.

* * * * *

[Redesignate 1.4, 1.5, and 1.6 as 1.5, 1.6, and 1.7, respectively, and add new 1.4 to read as follows:]

1.4 Securing Packages—General

Package preparation is subject to the following requirements:

a. Packages must be able to withstand normal transit and handling without breakage or injury to USPS employees.

b. Packages must be secured with banding, shrinkwrap, or shrinkwrap plus one or more bands. Banding includes plastic bands, rubber bands, twine/string, and similar material. Use of wire or metal banding is not permitted.

c. When one band is used, it must be placed tightly around the girth (narrow dimension).

d. Except under 1.5 and 2.1f, packages over 1 inch high (thick) must be secured with at least two bands or with shrinkwrap. When double banding is used to secure packages, it must encircle the length and girth of the package at least once. Additional bands may be used if none lies within 1 inch of any package edge.

e. Banding tension must be sufficient to tighten and depress the edges of the package so pieces will not slip out of the banding during transit and processing. Loose banding is not allowed.

f. When twine/string is used to band packages, the knot(s) must be secure so the banding does not come loose during transit and processing.

[Amend the heading of redesignated 1.5, add new 1.5a, and redesignate the current content as 1.5b to read as follows:]

1.5 Packages on Pallets

In addition to 1.1 through 1.4, packages on pallets must meet the following standards:

a. Except as noted in 1.5b, packages up to 1 inch in height (thickness) must be secured with appropriate banding, placed at least once around the girth, or with shrinkwrap. Packages over 1 inch in height must be secured with at least two bands (plastic bands, rubber bands, twine/string, or similar material), one around the length and one around the girth, with shrinkwrap, or with shrinkwrap plus one or two bands.

b. Packages may be secured with heavy-gauge shrinkwrap plus plastic banding, only shrinkwrap, or only banding material if they can stay together during normal processing. Except for packages of individually polywrapped pieces, packages on BMC pallets must be shrinkwrapped and machinable on BMC parcel sorters. Packages and bundles of individually polywrapped pieces may be secured with banding material only. Machinability is determined by the USPS. If used, banding material must be applied at least once around the length and once around the girth; wire and metal strapping are prohibited.

[Revise the first sentence of redesignated 1.6 to indicate that packages of Bound Printed Matter must also meet the applicable maximum package size standards in M045 and M722 to read as follows. No other changes to text.]

1.6 Package Size—Bound Printed Matter

Each "logical" package (the total group of pieces for a package destination) of Bound Printed Matter must meet the applicable minimum and maximum package size standards prescribed in M045 or M722. * * *

1.7 Package Size—Other Mail Classes

Except for Bound Printed Matter, an individual package may be prepared with fewer than the minimum number of pieces required by the standards for the rate claimed without loss of rate eligibility under either of these conditions:

a. A greater number of pieces would exceed the maximum physical size for a package and the total number of pieces for that presort destination meets the minimum volume standard (e.g., 30 pieces are available to meet a 10-piece minimum, but a package of eight pieces is 6 inches thick).

b. The pieces constitute the "last package" for a presort destination and previously prepared packages met the applicable minimum volume standard (e.g., 505 pieces prepared in 10 50-piece packages and one five-piece package)

[Redesignate former 1.7 as 1.9 and add new 1.8 to read as follows:]

1.8 Packages in Sacks—Periodicals and Standard Mail

Periodicals and Standard Mail prepared in sacks must be secured in packages as follows:

a. The maximum weight for all packages is 20 pounds.

b. Packages up to 1 inch in height (thickness) must be secured with appropriate banding, placed at least once around the girth (narrow dimension), or with shrinkwrap. Packages over 1 inch in height must be secured with at least two bands (plastic bands, rubber bands, or twine/string), one around the length and one around the girth, with shrinkwrap, or with shrinkwrap plus one or two bands.

c. Packages should be measured at the lowest (thinnest) point to determine the package height.

d. A package that exceeds the maximum prescribed height by less than the thickness of a single piece meets the standard (e.g., if a glossy piece is 0.625 (5/8) of an inch thick, five pieces may be secured in a package 3.125 inches high; if a piece with uncoated cover stock is 0.75 (3/4) of an inch thick, 11 pieces may be secured in a package 8.25 inches high).

e. Packages of pieces with covers of coated stock that are not individually enclosed in a mailing wrapper (e.g., magazines or catalogs with glossy covers not individually enclosed in an envelope, uncoated paper wrapper, or plastic wrapper (polybag)) are subject to these conditions:

(1) Except as noted in e(2), packages must not exceed 3 inches in height (thickness).

(2) Packages of such pieces secured with shrinkwrap plus one or two plastic straps, or with at least two plastic straps, one around the length and one around the girth, must not exceed 6 inches in height (thickness).

f. Packages containing pieces with outer surfaces of uncoated stock are subject to these conditions:

(1) "Uncoated stock" also refers to pieces with coated covers that are individually enclosed in a cover or mailing wrapper of uncoated stock such as an envelope, sleeve, protective cover, partial wrapper, or polybag and pieces with outer surfaces composed of material other than paper (e.g., plastic, cloth, fiberboard, or metal).

(2) Packages must not exceed 8 inches in height (thickness); however, it is recommended that such packages not exceed 6 inches in height (thickness).

[Amend the heading of redesignated 1.9 to read as follows. No other changes to text.]

1.9 Exception to Package Preparation—Mail in Trays

* * * * *

2.0 ADDITIONAL STANDARDS—FIRST-CLASS MAIL, PERIODICALS, AND STANDARD MAIL, AND FLAT-SIZE BOUND PRINTED MATTER

[Amend 2.1 by copying the content of 2.3b to new 2.1f and revising the content to read as follows:]

2.1 Cards and Letter-Size Pieces

Cards and letter-size pieces are subject to these packaging standards:

* * * * *

f. Packages up to 1 inch thick must be secured with appropriate banding placed once around the girth (narrow dimension). Packages over 1 inch thick must be secured with at least two bands, one around the length and one around the girth.

[Amend 2.2 by revising the content to read as follows:]

2.2 Flat-Size Pieces

Packages of flat-size pieces must be secure and stable subject to specific weight limits in M045 if placed on pallets, specific weight and height limits in 1.8 for Periodicals and Standard Mail placed in sacks, and, for Bound Printed Matter in sacks, specific weight limits in M720. Flat-size pieces must be prepared in packages except under 1.9 and, for First-Class Mail, under M820.3.0.

[Amend the heading of 2.3 and amend the content by copying and amending 2.3a and deleting current 2.3b to read as follows:]

2.3 Pieces With Simplified Address

For mail prepared with a simplified address, all pieces for the same post office must be prepared in packages of 50 when possible. If packages of other quantities are prepared, the actual number of pieces must be shown on the facing slip attached to show distribution desired (e.g., rural route, city route, post office boxholder). Packages must be secure and stable subject to specific weight limits in M045 if placed on pallets, specific weight and height limits in 1.8 for Periodicals and Standard Mail placed in sacks, specific thickness limits in 2.1 for cards and letter-size pieces, and, for Bound Printed Matter in sacks, specific weight limits in M720.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–13397 Filed 5–25–01; 8:45 am]

BILLING CODE 7710–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[FCC 01–137]

Implementation of LPTV Digital Data Services Pilot Project

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document is intended to implement provisions of the LPTV Pilot Project Digital Data Services Act, which requires the Commission to implement regulations establishing a pilot project pursuant to which specified Low Power Television (LPTV) licensees or permittees can provide digital data services to demonstrate the feasibility of using LPTV stations to provide high-speed digital data service, including internet access, to unserved areas.

DATES: Effective April 27, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Gordon Godfrey, Policy and Rules Division, Mass Media Bureau, (202) 418–2120 or Keith Larson, Mass Media Bureau at (202) 418–2600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the "*Order*", FCC 01–137, adopted April 19, 2001, and released April 27, 2001. The text of this *Order* is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC and may also be purchased from the Commission's copy contractor, International Transcription Service (202) 857–3800, 445 12th Street, SW., Room CY-B402, Washington, DC. The *Order* is also available on the Internet at the Commission's website: *http://www.fcc.gov.*

Synopsis of Order

I. Introduction

1. With this *Order*, we implement the provisions of the LPTV Pilot Project Digital Data Services Act ("DDSA"). The DDSA mandates that the Commission issue regulations establishing a pilot project pursuant to which specified Low Power Television ("LPTV") licensees or permittees can provide digital data services to demonstrate the feasibility of using low-power television stations to provide high-speed wireless digital data service, including Internet access, to unserved areas.[1] As defined by the new law, digital data service includes: (1) Digitally-based interactive broadcast service; and (2) wireless Internet access.[2] The DDSA identifies twelve specific LPTV stations that are eligible to participate in this pilot project, and directs the Commission to select a station and repeaters to be determined by the FCC to provide service to specified areas in Alaska.

2. The DDSA requires that the Commission promulgate regulations with respect to this pilot project by April 20, 2001,[3] and specifies

[1] Public Law 106–554, 114 Stat. 4577 (December 21, 2000), Consolidated Appropriations—FY 2001, section 143, amending section 336 of the Communications Act of 1934, as amended, 47 U.S.C. 336, to add new paragraph (h).

[2] 47 U.S.C. 336(h)(7).

[3] According to new section 336(h)(3), 47 U.S.C. 336(h)(3):

Notwithstanding any requirement of section 553 of title 5, United States Code, the Commission shall promulgate regulations establishing the procedures, consistent with the requirements of paragraphs (4) and (5), governing the pilot projects for the provision of digital data services by certain low power television licensees within 120 days after the date of enactment of LPTV Digital Data Services Act. The regulations shall set forth—

(A) requirements as to the form, manner, and information required for submitting requests to the Commission to provide digital data service as a pilot project;

(B) procedures for testing interference to digital television receivers caused by any pilot project station or remote transmitter;

interference and other criteria that the designated LPTV stations must meet.[4] The Commission is not required to use notice and comment rule making under 5 U.S.C. 553 to promulgate these regulations and the other provisions of that section are also inapplicable.[5] Further, the DDSA specifies that the Commission require quarterly reports from the specified LPTV stations participating in the project, including information with respect to interference and market success in providing digital data service.[6] In addition, the Commission is required to collect fees with respect to the new service.[7] Finally, on June 30, 2001 and on June 30, 2002, the Commission is required to submit a report to Congress, under section 143(b) of the new law, "evaluating the utility of using low-power television stations to provide high-speed digital data service," based on the pilot projects.

II. Discussion

A. Authorization and Filing Requirements

3. *Eligibility.* The DDSA specifies twelve LPTV stations eligible to participate in the pilot project. These are: KHLM–LP, Houston, Texas; WTAM–LP, Tampa, Florida; WWRJ–LP, Jacksonville, Florida; WVBG–LP, Albany, New York; KHHI–LP, Honolulu, Hawaii; KPHE–LP (K19DD), Phoenix, Arizona; K34FI, Bozeman, Montana; K65GZ, Bozeman, Montana; WXOB–LP, Richmond, Virginia; WIIW–LP, Nashville, Tennessee; WSPY–LP, Plano, Illinois; and W24AJ, Aurora, Illinois. The DDSA also includes in the LPTV stations eligible to participate in the pilot project a station and repeaters to be determined by the Federal Communications Commission for the sole purpose of providing service to communities in the Kenai Peninsula Borough and Matanuska Susitna Borough in Alaska.[8] We invite LPTV stations in these locations to come forward and present their proposals to commence such a pilot project. The proposal should be submitted in an informal application complying with the requirements set out in this Order.

4. *Services to be provided.* The DDSA defines permissible digital data services to include: digitally based interactive broadcast service and wireless Internet access.[9] Wireless Internet can be provided on a one-way or two-way basis on the LPTV channel and may be portable or fixed. The DDSA also provides that the service may be connected to the Internet "via a band allocated to Interactive Video and Data Service." Use of frequencies for this service, now called 218–219 MHz service under part 95, subpart F, must be in accordance with the licensing and other rules established for that service. Specifically, an entity will be permitted to use 218–219 MHz Service frequencies for provision of digital data services pursuant to the DDSA by obtaining a 218–219 MHz Service license via competitive bidding or by entering into an agreement with a 218–219 MHz Service licensee regarding use of its spectrum (*e.g.*, through partitioning and/or disaggregation agreements under 47 CFR. 95.823).[10] The DDSA specifically indicates that LPTV digital data services may be delivered via multiple transmitters at multiple locations. Therefore, we will fashion the requirements for this service to allow the authorized LPTV facility to be converted to a main base station and to allow additional base stations to be authorized as on-channel boosters.

5. *General Requirements.* As participants in this pilot program are LPTV stations, we believe that the LPTV rules, contained in subpart G of part 74 of the Commission's rules, should continue to apply to these stations in all respects, except as specified in the statute and in this *Order.* First and foremost, the LPTV stations participating in the pilot project will continue to have the secondary regulatory status accorded to all other LPTV stations. Thus, for example, the stations participating in the pilot project must provide protection from interference to all primary uses of the spectrum, including authorized full-service TV stations, authorized full-service DTV stations, and land mobile service provided on a "shared-channel" basis. Furthermore, such stations must provide protection to other secondary uses that were previously authorized or proposed in pending applications relative to the pilot project stations' underlying LPTV authorizations. Such other secondary uses include other LPTV stations, TV translator stations, and TV booster stations. In addition, protection must be afforded pursuant to the existing LPTV rules to Class A TV stations. Additionally, except as specified herein, all non-technical requirements applied to LPTV stations, such as, for example, the rules and procedures relating to transfer of LPTV stations, shall apply to the stations participating in the pilot project. Any other of the Commission's rules that apply to LPTV stations also will apply to the participants in the pilot program, except as specified herein.[11] In sum, all rules that apply to LPTV stations will apply to the LPTV pilot project stations except as otherwise specified herein.

6. *Service Area.* Since these stations will be participating in a pilot project to demonstrate the feasibility of a new mode of operation for LPTV stations, we conclude that it is appropriate that the protected service area of the pilot project station be within the protected service signal contour of the existing LPTV station under its authorized analog facilities. For eligible LPTV stations that have both a license and a construction permit to modify the licensed facilities, the pilot project station may be operated consistent with either the licensed facilities or the facilities authorized in the construction permit (channel and service area). Participants will not be allowed to operate both the licensed and construction permit facilities at the same time, that is, one for digital data transmissions and the other for analog LPTV broadcast service. If a pilot project station requests use of construction permit facilities, operation of the licensed LPTV facilities must cease when operation of the construction permit facilities commences. This provision is intended to address situations where a station's license and

(C) procedures for terminating any pilot project station or remote transmitter or both that causes interference to any analog or digital full-power television stations, class A television station, television translators or any other users of the core television band;

(D) specifications for reports to be filed quarterly by each low power television licensee participating in a pilot project;

(E) procedures by which a low power television licensee participating in a pilot project shall notify television broadcast stations in the same market upon commencement of digital data services and for ongoing coordination with local broadcasters during the test period; and

(F) procedures for the receipt and review of interference complaints on an expedited basis consistent with paragraph (5)(D).

[4] 47 U.S.C. 336(h)(4).

[5] 47 U.S.C. 336(h)(3).

[6] 47 U.S.C. 336(h)(5)(C).

[7] 47 U.S.C. 336(h)(6).

[8] 47 U.S.C. 336(h)(2).

[9] 9 Under 47 U.S.C. 336(h)(2), digital data service includes:

(A) digitally-based interactive broadcast service; and

(B) wireless Internet access, without regard to—

(i) whether such access is—

(I) provided on a one-way or a two-way basis;

(II) portable or fixed; or

(III) connected to the Internet via a band allocated to Interactive Video and Data Service; and

(ii) the technology employed in delivering such service, including the delivery of such service via multiple transmitters at multiple locations.

[10] Permission may be sought under a separate experimental authorization under part 5 of the Commission's rules.

[11] These include, but are not limited to the rules contained in Subpart—General; Rules Applicable to all Services in part 74.

construction permit serve mostly different areas, where they are authorized on different channels or where both conditions exist. We will afford protection to pilot project operations based only on the protection afforded the underlying analog LPTV authorization. If an interfering source would not be required to protect the underlying LPTV station's service (for example interference from a full service analog TV or DTV station), then it will not be required to eliminate or reduce interference to the pilot project operation. Further, if an interfering source would not cause unacceptable interference to the underlying LPTV station (based on the LPTV station operating as authorized to provide analog TV service), then it also will not be required to eliminate or reduce interference to the pilot project operation.

7. *Term of pilot project.* The DDSA does not specify how long the pilot project should last. Nonetheless, it indicates that our last report to Congress on the pilot project is due on June 30, 2002. Accordingly, we hereby clarify that we will issue experimental letter authorizations for the pilot project that will expire on June 30, 2002, unless the term is extended prior to that date. We delegate authority to the Mass Media Bureau to extend the term of the authorizations for individual participants or for participants as a group, and to do so by Public Notice, in the event that it is determined that the term of the pilot project should be extended.

8. *Application requirements.* The DDSA requires that we establish "requirements as to the form, manner, and information required for submitting requests to the Commission to provide digital data service as a pilot project." [12] The legislation specifies that digital data services may not be provided unless interference and other criteria are met.[13] In general, we have determined that it is most appropriate to require submission of an informal application for experimental authority in a manner consistent with § 73.1510(b) of our rules.[14] All other aspects of § 73.1510 will not be applicable because they are inconsistent with the DDSA.[15] We will accept applications only from the eligible station specified in the DDSA.[16] Exhibits to the informal applications must fully describe the proposed experimental program and the technical facilities that are proposed. Specifically, for a main base station and any base station boosters, we will require information that is also sought in Form 346, which is used to request authority to construct or make changes to an LPTV, TV translator or TV booster station. The application should contain the general information requested in questions 1–3 of section I, the legal certification requested in question 10 of section II, and, for each requested facility, all of the engineering information requested in section III of Form 346. With respect to the engineering information: The modulation type and bandwidth should be specified; the digital average power should be provided in lieu of the peak analog power; base or fixed station transmitting antenna beam-tilt, if any, and polarization should be specified; for response stations, the maximum number of units, the area of anticipated operation, the receive and transmit antenna characteristics including polarization, gain and directional patterns, the largest average digital transmitter output power and effective radiated power contemplated for the pilot project, and the expected worst-case antenna height above ground should be specified. In addition, the application must contain a certification that the facilities in the pilot project will conform to the Commission's environmental impact rules, including explicitly that the proposed operation will not result in RF exposure in excess of the pertinent limits and the provisions set forth. The application should also contain certifications of the applicant and of the preparer of the engineering information, attesting to the accuracy and completeness of the information furnished. Consistent with the Commission's treatment of applications for other experimental authorizations, this application for digital data services will be fee exempt.

9. *RF Safety.* We will require pilot project licensees and permittees employing two-way technology to attach labels to every response station transceiver (fixed or portable) in a conspicuous fashion visible in all directions and readable at distances beyond the minimum separation distances. These labels shall give notice of the potential radiofrequency safety hazards, and specify minimum separation distances. Such labels should include reference to the Commission guidelines that apply.[17] The general populations/uncontrolled limits apply to consumer response stations. In addition, pilot project licensees and permittees employing two-way technology must include a full explanation of the labels that appear on their transceivers, as well as reference to the applicable Commission guidelines in the instruction manuals and other information accompanying the transceivers. This information should include advice as to the minimum separation distances required between users and radiating antennas to meet the Commission's exposure guidelines. We will not mandate the specific language that must be used, however we will require the use of the ANSI-specified warning symbol for RF exposure. We also recommend that fixed response antennas be installed by pilot project licensees/permittees or by professional personnel under their direction. Professional installation will minimize the possibility that an antenna will be placed in a location that could expose participants in the pilot project or other persons to the radiated signal at close proximity and for an extended period of time.

10. *Description of experiment.* Section 73.1510(b) requires the application to include a description of the nature and purpose of the experimentation and of the nature of the experimental signal to be transmitted. We will require these applications to specify a program of experimentation that fulfills the requirements of the DDSA. Specifically, the experiments must address a determination of the threshold of perceptible interference to DTV receivers from all types of transmission that the pilot project stations operate with.[18] In so doing, the LPTV

[12] 47 U.S.C. 336(h)(3)(A).

[13] Under 47 U.S.C. 336(h)(4), participating LPTV stations may not provide digital data service unless:

(A) the provision of that service, including any remote return-path transmission in the case of 2-way digital data service, does not cause any interference in violation of the Commission's existing rules, regarding interference caused by low power television stations to full-service analog or digital television stations, class A television stations, or television translator stations; and

(B) the station complies with the Commission's regulations governing safety, environmental, and sound engineering practices, and any other Commission regulation under paragraph (3) governing pilot program operations.

[14] 47 CFR 73.1510(b). This part 73 rule section is made applicable to part 74 LPTV stations pursuant to 47 CFR 74.780.

[15] The prohibition on sponsored programs or commercial announcements during experimental operation in § 73.1510(c)(4) and the prohibition on charges being made for the experimentation in § 73.1510(c)(6) are notably inconsistent with the services envisioned by the DDSA.

[16] We include in these entities an LPTV station to provide service to the designated locations in Alaska.

[17] *See* Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation, ET Docket No. 93–62, *R&O*, 61 FR 41006 (August 7, 1996), 11 FCC Rcd. 15123, 15124, 15152 (1996); 47 CFR 1.1307(b)(1) and 1.1310.

[18] Under 47 U.S.C. 336(h)(3)(B), the Commission must establish procedures "for testing interference

participants should assess the potential for causing interference to the reception of nearby DTV stations, including DTV stations that begin operating during the pilot project. For instance, LPTV participants should carefully assess the potential for interference in those situations where pilot project base and/or response stations would operate in the service area of a DTV station operating on a first adjacent channel. Testing should be designed to facilitate the establishment of appropriate operating parameters for all types of proposed transmitting facilities, including desired-to-undesired signal strength ratios for interference situations and the field strength values that represent the range of service. For 2-way service, establishing the service range involves reception both to and from subscriber or consumer transmission/reception facilities (response stations). To the extent possible based on the DTV station environment, testing should determine the distances from DTV receivers at which pilot project stations, including fixed and/or portable response stations, can operate without causing any perceptible interference. We believe meaningful interference testing would include a combination of observations and signal measurements considering such factors as the strengths of desired and undesired signals, the nature of the DTV reception equipment (indoor or outdoor antennas) and the local signal to noise environment. If relevant to the nature of the LPTV data transmissions, interference testing should also consider the effects of the simultaneous transmissions of multiple response stations, compared with the effects of those of single response stations. Testing also must include an evaluation of consumer or marketplace acceptance of the LPTV digital data technology.

11. *Resolution of interference.* The DDSA requires that the Commission establish procedures "for the receipt and review of interference complaints on an expedited basis. * * *"[19] In addition, the legislation provides that the Commission may limit the provision of such service if irremediable interference is caused.[20] Section 74.703 of the Commission's rules specifies the applicable requirement for LPTV stations correcting a situation of actual interference.[21] Stations participating in this pilot project must comply strictly with the requirements of this rule. In addition, pursuant to the DDSA, we will require stations in the pilot project to take steps to resolve any reported interference promptly.[22] Specifically, upon receipt of a valid interference complaint, the licensee or permittee should make every effort to modify or suspend operation within 3 hours to eliminate the interference. An interference complaint is considered valid if the interference is to reception of a station or service that must be protected and it is reasonably determined that the interference is from the operation of the pilot project station (for example, if the interference is to a service on a channel where predicted interference is a concern and the interference commenced when a new mode of pilot project station operation began). If the complaint is received from any source other than the affected broadcaster or station, the pilot project participant should fax a copy of the complaint to the affected station within 48 hours of its receipt. If the pilot project station claims that it is not causing the interference or that the interference is not to protected service, it must fax the interference complaint and its opposition to the Commission's Mass Media Bureau, Video Services Division within 48 hours.[23] If the complaint is received from any source other than the affected broadcaster or station, the pilot project participant should at the same time fax a copy of the complaint to the affected station. In addition, the pilot project participant should fax a copy of its opposition to the affected broadcaster or station even if the complaint is received from that broadcaster or station. Thereafter, the Commission's staff will review the situation and issue a decision as quickly as possible, but in any case within the 60 days provided in the DDSA.[24]

12. *Technical operation.* We believe that we should permit as much flexibility as possible with respect to technical operation. We want to allow each station to choose a type of digital modulation that it determines appropriate. Where the type of modulation differs from the standard DTV system 8–VSB, we will require a full description of the modulation the station is proposing to use and an exhibit demonstrating that its use would not be expected to cause interference to DTV and analog TV service. Such an exhibit is also required if a proposed 8–VSB transmission would not comply with the out-of-band emission requirements specified in the DTV rules.[25]

13. We anticipate the possibility that several types of transmission facilities may be involved in each pilot project station. First, we expect that most, if not all, of these projects will involve digital transmissions from a main base station at the authorized site of the underlying LPTV station. Unless the evaluation of its digital modulation method requires otherwise, we will assume that operation of such a facility will not represent a significantly increased interference threat compared to the authorized LPTV station if the antenna height is not increased and the digital average power does not exceed 10 percent of the authorized analog LPTV power (10 dB less power). In DTV service, this level of digital power is adequate to provide coverage of the same area. Accordingly, the Commission's staff will not evaluate at the application stage the interference potential of a main digital base station conforming to this restriction.

14. The second type of transmission facility might consist of one or more additional base stations (boosters) located at sites away from the authorized LPTV transmitter site. We propose to treat such stations as we have analog TV booster stations except that each booster may originate its own data messages. As such, we expect such facilities to be limited to a site location, power and antenna height combination that does not extend the coverage area

to digital television receivers caused by any pilot project station or remote transmitter."

[19] 47 U.S.C. 336(h)(3)(F).

[20] Under 47 U.S.C. 336(h)(5)(A):

The Commission may limit the provision of digital data service by a low-power television station to which this paragraph applies if the Commission finds that—

(i) the provision of 2-way digital data service by that station causes any interference that cannot otherwise be remedied; or

(ii) the provision of 1-way digital data service by that station causes any interference.

[21] 47 CFR 74.703(b) indicates:

* * * the responsibility of the licensee of a low power TV, TV translator, or TV booster station to correct at its expense any condition of interference to the direct reception of the signal of any other TV broadcast analog station and DTV station operating on the same channel as that used by the low power TV, TV translator, or TV booster station or an adjacent channel which occurs as a result of the operation of the low power TV, TV translator, or TV booster station. Interference will be considered to occur whenever reception of a regularly used signal is impaired by the signals radiated by the low power TV, TV translator, or TV booster station, regardless of the quality of the reception or the strength of the signal so used. If the interference cannot be promptly eliminated by the application of suitable techniques, operation of the offending low power TV, TV translator, or TV booster station shall be suspended and shall not be resumed until the interference has been eliminated.

[22] Under 47 U.S.C. 336(h)(3)(C), the Commission must establish procedures "for terminating any pilot project station or remote transmitter or both that causes interference to any analog or digital full-power TV stations, class A television station, television translators or any other users of the core television band."

[23] The Video Services fax number is currently (202) 418–2827.

[24] 47 U.S.C. 336(h)(6).

[25] 47 CFR 73.622(h).

of the main base station in any direction. We will require an exhibit demonstrating that booster coverage is contained within main base station coverage, based on the digital field strength predicted from the main base station at the protected contour of the underlying analog LPTV authorization. Further, we will assume that such an operation will not cause additional interference unless an interference situation is demonstrated in an informal objection to the application. Absent such an objection, the Commission's staff will not evaluate at the application stage the interference potential of an additional digital base station conforming to this restriction.

15. A third possible type of transmission facility is a fixed response station communicating with a base station.[26] We are concerned about the interference potential of such facilities, but want to allow sufficient flexibility for such stations to allow productive testing of desirable power levels and permitted range in terms of distance from base station. On balance, we conclude that such response stations in this pilot project should use as low an effective radiated power (ERP) as is consistent with satisfactory communication with a base station, and in no case should the ERP (digital average power) exceed 10 watts. We will not specifically limit the range of operation from the main or additional base stations, but caution participants in this pilot project that they must protect other stations from interference in accordance with the discussion above.

16. A fourth possible type of transmission facility is a portable response station. Again, while we are concerned about the interference potential of such a station, we want to allow productive testing of desirable power levels and permitted range in terms of distance from a base station. Accordingly, we conclude that such response stations should use as low an effective radiated power (ERP) as is consistent with satisfactory communication with the base station, and in no case should the digital average ERP exceed 3 watts. In addition, the transmitting antenna should be built into the portable transceiver. We will not specifically limit the range of operation from the main or additional base stations, but caution participants in this pilot project that they must protect other stations from interference in accordance with the discussion above and will not be protected at locations beyond the underlying LPTV station's protected signal contour.

17. Additional types of transmission facilities may be proposed, as may facilities that conform to one of the listed types, but do not meet the specified restrictions. For such requests, the applicant must provide sufficiently detailed analysis to allow the Commission staff to conclude that interference is unlikely.

18. *Processing.* We intend to accept these applications in the same manner used in processing other experimental applications. The normal "broadcast applications" public notice will be issued, and a copy of the application will be available in the public reference room. Where an application is found to be acceptable, the Mass Media Bureau is delegated authority to authorize the proposed operation by an informal letter grant within 60 days, subject to any appropriate conditions that we may impose in the authorization. As this is an informal application, we will not entertain petitions to deny. Informal objections can be filed any time before the application is granted.

19. *Facilities changes.* The DDSA establishes criteria by which to evaluate requests by participants for facilities changes.[27] We interpret this provision as applying to any requested changes to the underlying analog LPTV authority. Thus, an application to change channel or location must be filed on Form 346 seeking a construction permit to make changes in a licensed LPTV station or a modification of an existing LPTV station construction permit. Following grant of the change in the authorized facilities of the underlying LPTV station, an informal application to modify the pilot project authorization may be filed in accordance with the above procedures.

B. Notification and Reporting Requirements

20. *Notification Requirements.* The DDSA requires that we establish "procedures by which a low power television licensee participating in a pilot project shall notify television broadcast stations in the same market upon commencement of digital data services and for ongoing coordination with local broadcasters during the test period. * * *"[28] Accordingly, at least twenty days before an LPTV licensee or permittee commences operations pursuant to the pilot program, it must notify all permittees and licensees of television stations in the same market concerning the particulars of its proposed operation. For this purpose, we will consider the market to include all stations assigned to the Designated Market Area (DMA) in which the LPTV pilot project station is located. Similarly, the pilot project stations must notify any authorized full service TV station whose Grade B contour, authorized DTV station whose predicted service contour[29] and any Class A station whose protected service contour overlaps the protected service contour of the pilot project station's underlying LPTV authorization. The LPTV station that is commencing such operations must notify such other television stations in writing or electronically and must provide a complete description of its technical facilities, including power, modulation format, antenna height, and coordinates of any fixed base or booster facilities; the power, modulation format, anticipated antenna height, and the expected area of operation of any fixed and portable response units; as well as the name and telephone number of a person who may be contacted in the event of interference. We will require the LPTV station to coordinate with such other television stations in its market, as defined in this paragraph, before it makes any change to its facilities or services that might cause interference to those stations, including proposals to expand the range of operation of response units beyond the range initially notified. We will also require the LPTV stations participating in the pilot project to permit local broadcasters to observe the interference testing aspects of the pilot project.

21. *Reporting requirements.* The DDSA requires that the Commission establish quarterly reporting requirements for LPTV stations participating in the pilot project.[30]

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[26] *See* for example, the definition of a Multipoint Distribution Service response station given in 47 CFR 21.2.

[27] Under 47 U.S.C. 336(h)(5)(B):

The Commission shall grant any such station, upon application (made in such form and manner and containing such information as the Commission may require) by the licensee or permittee of that station, authority to move the station to another location, to modify its facilities to operate on a different channel, or to use booster or auxiliary transmitting locations, if the grant of authority will not cause interference to the allowable or protected service areas of full service digital television stations, National Television Standards Committee assignments, or television translator stations, and provided, however, no such authority shall be granted unless it is consistent with existing Commission regulations relating to the movement, modification, and use of non-class A low power television transmission facilities in order—

(i) to operate within television channels 2 through 51, inclusive; or

(ii) to demonstrate the utility of low-power television stations to provide high-speed 2-way wireless digital data service.

[28] 47 U.S.C. 336(h)(3)(E).

[29] *See* 47 CFR 73.622(e).

[30] 47 U.S.C. 336(h)(3)(D).

These quarterly reports should be filed by the tenth day of the month following the end of the quarter,[31] and must include information: on the station's experience with interference complaints and the resolution thereof; and information on the station's market success in providing digital data service.[32] In addition, the DDSA provides that the reports must include "such other information as the Commission may require in order to administer this paragraph."[33] We will require each pilot project station to include a complete description of any interference complaints it receives, any interference it determines it may be causing and any interference it determines it has received, in its required quarterly report to the Commission. We also will require the quarterly reports to include data concerning transmission format, power and antenna height and determinations of the range within which its desired service could be provided, and any other matters of technical or operational significance. The reporting requirement will commence once experimental authority is granted.

C. Fees

22. Under new section 336(h)(6), the Commission must assess and collect from LPTV stations authorized to participate in the pilot project "an annual fee or other schedule or method of payment comparable to any fee imposed under the authority of this Act on providers of similar services."[34] The statute allows the Commission to retain receipts of the fee "as an offsetting collection to the extent necessary to cover the costs of developing and implementing the pilot program authorized by this paragraph, and regulating and supervising the provision of digital data service by low-power television stations under this paragraph."[35] The legislation also provides that excess amounts "shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code."[36]

23. Based on the statute, we believe that the services that will be offered by LPTV licensees in the pilot project (digitally-based interactive broadcast services and wireless Internet access) are similar to certain of the services, including ancillary or supplementary services, that may be offered by Digital Television (DTV) licensees. Accordingly, we will impose on the LPTV licensees a comparable fee to that imposed on DTV licensees that offer feeable ancillary or supplementary services. Thus, we will impose a fee of five percent of gross revenues derived from the digital data services provided pursuant to the pilot project to the extent to which these services would be feeable if offered by DTV licensees.[37]

24. Not only are the digital data services that may be provided by LPTV stations similar to those that may be provided by DTV licensees, but, in addition, we believe that a fee of five percent will not discourage the provision of these services just as we noted that it would not dissuade DTV broadcasters from offering such DTV ancillary or supplementary services.[38] The amount of the fee will vary with the gross revenues from these services, *i.e.*, with the willingness of consumers to pay for such services. Under this fee structure, if a given provider of the new service does not find a market and is not profitable, its fee will be low. Finally, we believe that this fee is a relatively simple fee for LPTV stations to calculate and for the Commission to apply. Thus, we believe that it is an appropriate fee.[39]

25. The fee of five percent of gross revenues will apply to the extent to which the services provided would be feeable if offered by a DTV licensee.[40] Thus, to the extent that the services are provided for a subscriber fee, they will be feeable. Free over-the-air video program services will not be feeable. If questions arise as to whether certain services are feeable or not,[41] we can address them in the context of an appropriately filed request for declaratory ruling.

26. Collection procedures with respect to the five percent of gross revenues fee will be identical to those that apply to DTV licensees, as outlined in the *Fees Report and Order*, 63 FR 69208 (December 14, 1998). Since the DDSA requires participating licensees to submit quarterly reports, the annual report, on FCC Form 317, applicable to DTV licensees will not apply. However, LPTV stations in the pilot project that have provided feeable services at any point during the twelve-month period ending on September 30, will file the FCC's standard remittance form (Form 159) on the subsequent December 1. Such annual fee filings will apply until the end of the pilot project unless continued thereafter by the FCC. For revenues reported December 1, 2001 only, licensees are to certify revenues received from the feeable services provided from the inception date of the services through September 30, 2001 and remit payment of the required fee for that period.

27. LPTV licensees should use Form 159 (the standard fee remittance form) for the purpose of paying this fee, filing it by December 1. They should follow the instructions for DTV licensees, except instead of paying with respect to feeable ancillary or supplementary services, they will pay with respect to feeable services provided pursuant to the pilot project. They should specify on line 23A the station's call sign; on 24A the payment type code "MDDA"; on line 29A the amount of gross revenues received from feeable services; on line

[31] For example, April 10, July 10, October 10 and January 10.

[32] 47 U.S.C. 336(h)(5)(C)(i), (ii).

[33] 47 U.S.C. 336(h)(5)(C)(iii).

[34] Under 47 U.S.C. 336(h)(6):

The Commission shall assess and collect from any low-power television station authorized to provide digital data service under this paragraph an annual fee or other schedule or method of payment comparable to any fee imposed under the authority of this Act on providers of similar services. Amounts received by the Commission under this paragraph may be retained by the Commission as an offsetting collection to the extent necessary to cover the costs of developing and implementing the pilot program authorized by this paragraph, and regulating and supervising the provision of digital data service by low-power television stations under this paragraph. Amounts received by the Commission under this paragraph in excess of any amount retained under the preceding sentence shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

[35] 47 U.S.C. 336(h)(6).

[36] *Id.*

[37] *See* 47 CFR 73.624(g); *R&O* in MM Docket No. 97–247, 63 FR 69208 (December 14 1998), *Fees for Ancillary or Supplementary Use of Digital Television Spectrum Pursuant to section 336(e)(1) of the Telecommunications Act of 1996*, 14 FCC Rcd. 3259 (1998) (Fees R&O), *recon. denied*. 14 FCC Rcd. 19,931 (1999) (*Fee Recon.*). Under the DDSA, the fee may be used by the Commission to offset its costs in implementing, regulating, and supervising this program.

[38] *See Fees R&O*, paragraphs 20, 30.

[39] *See Fees Recon.*, paragraph 16.

[40] Included in such feeable ancillary or supplementary services are services for which consumers pay subscriber fees or ancillary or supplementary services "for which the licensee directly or indirectly receives compensation from a third party in return for transmitting material furnished by such third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required)." 47 U.S.C. 336(e)(1)(B). In addressing the issue of whether a given service is feeable, we will follow the foregoing statutory criteria, as well as Commission rules and precedent established with respect to fees for DTV ancillary or supplementary services.

[41] In the DTV fees proceeding, we declined to decide whether home shopping, infomercials, direct marketing and similar services made via an interactive system (whereby the viewer may be able purchase a product shown on a home shopping program by clicking an icon displayed on the screen and transmitting a purchase order via the licensee's bit stream) provided by the licensee on its DTV bit stream were ancillary or supplementary services subject to a fee. We noted that such services are only at a nascent stage and that the particular circumstances are unclear. *Fees Recon.*, paragraph 26. We see no need to make this determination here as it is unclear whether this service will be provided pursuant to the pilot project or, if so, what the circumstances will be.

27A the fee which they remit with Form 159, in the amount of five percent of the amount specified on line 29A; and on line 28 the facility identification number assigned to their station by the Commission. The licensee's signature on line 30 certifies under penalty of perjury the accuracy of the information reported on Form 159.[42]

28. The Commission delegates authority to the Office of Managing Director to specify by Public Notice any additional procedures for filing and processing the fees required by this *Order* that are necessary or warranted. The Commission reserves the right to audit each participating licensee's records which support the calculation of the amount specified on line 27A of Form 159. Each such licensee, therefore, is required to retain such records for the duration of the pilot program, or for three years from the date of remittance of fees pursuant to this *Order*, whichever is longer.

29. While we do not here include automatic confidentiality for information submitted pursuant to this *Order*, submission of the required reporting form, and/or remittance of fee payment may be accompanied by a request for confidentiality pursuant to 47 CFR 0.459.

D. Other Requirements

30. *Application of experimental rules.* In addition to the foregoing, we believe that requirements similar to those contained in sections 5.93(a) and (b) of the rules should apply to the pilot program.[43] Thus, we will require that all transmitting and/or receiving equipment used in the pilot program be owned by, leased to, or otherwise under the control of the LPTV licensee.[44] Response station equipment may not be owned by subscribers to the experimental data service. This will insure that the LPTV licensee has control of the equipment if and when the pilot program terminates. In addition, we will require the LPTV licensee to inform anyone participating in the experiment, including but not limited to subscribers or consumers, that the service or device is provided pursuant to a pilot program and is temporary.[45]

31. *Final Regulatory Flexibility Analysis.* No regulatory flexibility analysis is required because the rules adopted in this *Order* are being adopted without notice and comment rule making.

32. *Congressional Review Act.* These rules, promulgated without notice and comment rule making, are not subject to the provisions of the Congressional Review Act.

III. Ordering Clauses

33. Accordingly, pursuant to the authority contained in sections 1, 2(a), 4(i), 7, and 336 of the Communications Act of 1934 as amended, 47 U.S.C. 1, 2(a), 4(i), 7 and 336, part 74 of the Commission's rules, 47 CFR part 74, *is amended* as set forth in this *Order*.

34. The rule amendments set forth *shall be effective* immediately.

List of Subjects in 47 CFR Part 74

Television.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 74 as follows:

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

1. The authority citation for part 74 is amended to read as follows:

Authority: 47 U.S.C. 154, 303, 307, 336(f), 336(h) and 554.

2. A new § 74.785 is added to read as follows:

§ 74.785 Low power TV digital data service pilot project.

Low power TV stations authorized pursuant to the LPTV Digital Data Services Act (Public Law 106–554, 114 Stat. 4577, December 1, 2000) to participate in a digital data service pilot project shall be subject to the provisions of the Commission *Order* implementing that Act. FCC 01–137, adopted April 19, 2001.

[FR Doc. 01–13380 Filed 5–25–01; 8:45 am]

BILLING CODE 6712–01–U

[42] *Compare Fees R&O*, paragraph 58.

[43] No other provisions of part 5 of the Commission's rules apply.

[44] *See* 47 CFR 5.93(a).

[45] *See* 47 CFR 5.93(b).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

[Docket No. 990910253–1120–03; ID No. 041300B]

RIN 0648–AM90

Endangered and Threatened Species; Endangered Status for White Abalone

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

ACTION: Final rule.

SUMMARY: Following completion of a comprehensive status review of the white abalone (*Haliotis sorenseni*) and a review of factors affecting the species, NMFS published a proposed rule to list the white abalone as an endangered species on May 5, 2000. After considering public comments on the proposed rule, NMFS is now issuing a final rule to list the white abalone as an endangered species. NMFS has determined that it is not prudent to designate critical habitat because identification of such habitat is expected to increase the threat of poaching for white abalone.

DATES: Effective June 28, 2001.

ADDRESSES: Assistant Regional Administrator, Protected Resources Division, NMFS, Southwest Region, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Craig Wingert, 562–980–4021; or Marta Nammack, 301–713–1401.

SUPPLEMENTARY INFORMATION:

Previous Federal Endangered Species Act (ESA) Actions Related to White Abalone

NMFS designated the white abalone, which is a marine invertebrate mollusc, as a candidate species under the ESA on July 14, 1997 (62 FR 37560), based on information indicating that the species had suffered a major decline in abundance. Because of the depleted status of white abalone, NMFS contracted with Scripps Institution of Oceanography (SIO) in August 1998 to conduct a comprehensive status review of the species. The status review of white abalone was completed in March 2000.

NMFS received a petition on April 29, 1999, from the Center for Biological Diversity and the Southwest Center for Biological Diversity to list white abalone as an endangered species on an

emergency basis and designate critical habitat under the ESA. On May 17, 1999, NMFS received a second petition to list white abalone as an endangered species throughout its range and designate critical habitat under the ESA from several environmental organizations. NMFS considered this second request as supplemental information to the first petition.

NMFS published its 90-day finding on September 24, 1999 (64 FR 51725), which concluded that the first petition presented sufficient scientific and commercial information indicating that a listing of white abalone as an endangered species may be warranted. However, NMFS did not find that the petition presented substantial evidence warranting listing on an emergency basis. This finding was based on a review of the petition and other available information which indicated that the State of California had closed commercial and recreational fishing for white abalone and that white abalone habitat was not currently at risk from destruction or adverse modification.

Based on the findings of the white abalone status review and an evaluation of the factors affecting the species, NMFS published a proposed rule to list the white abalone as an endangered species on May 5, 2000 (65 FR 26167).

Abalone Life History and Ecology

Abalone are marine gastropods belonging to the family Haliotidae and genus *Haliotis* and are characterized by a flattened spiral shell (Haaker, 1986; Hobday and Tegner, 2000a). Abalone have separate sexes and are broadcast spawners, releasing millions of eggs or sperm during a spawning event. Fertilized eggs hatch and develop into free-swimming larvae, spending from 5 to 14 days as non-feeding zooplankton before development (i.e., metamorphosis) into the adult form. After metamorphosis, they settle onto hard substrates in intertidal and subtidal areas. Abalone grow slowly and have relatively long lifespans of 30 years or more. Young abalone (referred to as "cryptic abalone") seek cover in rocky crevices, under rocks, and deep crevices, feeding on benthic diatoms, bacterial films, and single-celled algae found on coralline algal substrate (Cox, 1962). As abalone grow and become less vulnerable to predation at about 75-100 mm (2.9–3.9 inches) in length, they emerge from secluded habitat to more open, visible locations where their principal food source, attached or drifting algae, is more available (Cox 1962). In dive surveys, these animals are classified as "emergent" abalone. Abalone lead a relatively sedentary lifestyle. Although juveniles may move tens of meters per day, adult abalone have extremely limited movements as they increase in size (Cox, 1962; Tutschulte, 1976; Shephard, 1973).

Successful abalone recruitment has been related to the interaction between spawning density, spawning period and length, and fecundity (Hobday and Tegner, 2000a). At low adult densities, fertilization success is much reduced. When males and females are greatly separated, fertilization success may be negligible and recruitment failure will likely occur (Hobday and Tegner, 2000a).

White Abalone

Eight species of *Haliotis* occur along the west coast of North America. Historically, white abalone ranged from Point Conception, California, U.S.A., to Punta Abreojos, Baja California, Mexico. Although studies have recognized possible population structure in other *Haliotis* species, no studies have identified distinct populations of white abalone (Hobday and Tegner, 2000a). Tutschulte (1976) reported that white abalone are not as cryptic as other California abalone species.

White abalone is the deepest-living of the west coast *Haliotis* species (Hobday and Tegner, 2000). According to Cox (1960) and Tutschulte (1976), white abalone were found at subtidal depths of 20-60 m (66–197 ft) and were historically most "abundant" at depths of 25–30 m (80–100 ft). At these depths, white abalone are found in open low relief rock or boulder habitat surrounded by sand (Tutschulte, 1976; Davis *et al.*, 1996).

White abalone may be limited to depths where algae grow, a function of light levels and substrate availability, because they are reported to feed less on drift algae and more on attached brown algae (Tutschulte, 1976; Hobday and Tegner, 2000a). The upper and lower limits of white abalone depth distribution could also be influenced by temperature effects on larvae and juvenile survival. Leighton (1972) found that white abalone larval survival is reduced at lower temperatures. Tutschulte (1976) speculated that white abalone may have been restricted to depths below 25 m (82 ft) by predation from sea otters when sea otter and white abalone latitudinal ranges overlapped or from competition with pink abalone and predation by octopuses.

According to Hobday and Tegner (2000a), the maximum shell length recorded for white abalone in California and Mexico is 20–25 cm (7.8–9.8 inches) and 17 cm (6.6 inches), respectively. Cox (1960) indicated the maximum size was slightly larger at 25.4 cm (10 inches), but that the "average" observed size is about 13–20 cm (5–8 inches) and animals less than 10 cm (4 inches) are rare. White abalone reach sexual maturity at a size between 88 and 134 mm (3.4–5.2 inches) in approximately 4 to 6 years and spawn in the winter, between February and April (Tutschutle, 1976; Tutschutle and Connell, 1981). Compared to two other California abalone species, white abalone have a high degree of spawning synchronicity wherein most males and females spawn in a relatively short time period. Based on a peak in 5-year old animals prior to the peak of the white abalone fishery, Tutschulte (1976) suggested that white abalone have irregular recruitment. Tutschulte (1976) estimated that the maximum lifespan of white abalone is 35 to 40 years.

In the laboratory, settlement of white abalone larvae occurred after 9 to 10 days at 15 °C (59 °F) (Leighton, 1972). This larval period is longer than periods reported for other California abalone species (Hobday and Tegner, 2000a). Drift tube studies have found that larval periods of most abalone species would not usually be long enough for regular dispersal of abalone between islands and mainland areas (Tegner and Butler, 1985b). Since they have a relatively long larval period, potential dispersal distances may be greater for white abalone than those other of abalone species (Hobday and Tegner, 2000a).

Summary of Comments Received in Response to the Proposed Rule

No public hearings were held for NMFS' proposal to list the white abalone as an endangered species, as no hearings were requested during the 60-day public comment period. During the public comment period, however, NMFS received nine written comments on the proposed rule: five from private citizens; two from non-governmental organizations, and one each from a local government agency and an academic/research organization. Of the nine commenters, seven supported the listing of white abalone as an endangered species, one questioned the need for listing given the closure of the commercial and recreational fisheries for white abalone, and one provided some limited technical information only. A summary of the comments and the responses thereto are presented here.

Issue 1: Biological Information and Status of White Abalone

Comment: One commenter questioned the 25 cm (9.8 inches) maximum size of white abalone cited in NMFS' proposed

rule and indicated that Cox (1960) had reported a maximum size of 10 inches (or 25.4 cm). The commenter also provided museum specimen record citations for California and Mexico that provide additional documentation regarding the historic range of white abalone.

Response: NMFS' proposed listing notice does indicate that the maximum shell length recorded for white abalone in California ranges from 20–25 cm. This information was taken from the NMFS Status Review (Hobday and Tegner 2000a). The discussion of white abalone life history in this final rule has been modified to reflect the maximum size reported by Cox (1960).

Comment: One commenter speculated that white abalone have been extinct for at least 10 years based on his personal diving observations in the northern Channel Islands.

Response: As discussed in NMFS' status review, the proposed listing notice, and elsewhere in this final rule, the white abalone has declined precipitously in abundance over the past 30 years; however, NMFS disagrees that white abalone are already extinct. As discussed elsewhere in this final rule, the most recent submarine surveys that were conducted in 1996–7 and 1999 (Davis *et al.*, 1998; Haaker, *et al.*, 2000) directly observed small numbers of white abalone, and population estimates developed by Hobday and Tegner (2000a) based on these survey observations suggest that the current white abalone population ranges from approximately 1,600 to 2,500 individuals.

Issue 2: Need for Emergency Listing of White Abalone

Comment: One commenter indicated that NMFS should accelerate its efforts to protect white abalone by listing the species on an emergency basis under the ESA.

Response: As discussed in the proposed listing notice, NMFS has determined that an emergency listing of white abalone is not warranted. That determination was based on the fact that no emergency existed that posed a significant risk to the well-being of the species. Specifically, the State of California has closed the commercial and recreational fisheries for white abalone and the best available information indicated that white abalone habitat was not currently at risk of being destroyed or adversely modified. NMFS continues to believe that the timeframe of the normal rule making process is sufficient for the white abalone listing determination.

Issue 3: Need for Designation of Critical Habitat

Comment: Three commenters were very concerned that NMFS did not propose critical habitat for white abalone. These commenters believe that a critical habitat designation is necessary for the eventual recovery of white abalone and strongly urged NMFS to designate critical habitat encompassing the species' historic range, including the northern Channel Islands. One commenter provided information that it believed NMFS should consider if it proceeded with a critical habitat designation that included the Palos Verdes shelf.

Response: Section 4(a)(3)(A) of the ESA requires that, to the maximum extent prudent and determinable, NMFS designate critical habitat concurrently with a determination that a species is endangered or threatened. According to § 424.12(a)(1)(i) of NMFS' and the U.S. Fish and Wildlife Service's joint implementing regulations for listing endangered and threatened species and designating critical habitat (50 CFR part 424), a designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and the identification of critical habitat can be expected to increase the degree of such threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

Over-harvesting of white abalone for human consumption is the primary factor responsible for the dramatic decline (99 percent) in white abalone abundance, and it has led to a situation where the density of surviving adults is so low that successful reproduction and recruitment are unlikely to occur. There are very limited opportunities for people to harvest abalone in California any longer, and, therefore, NMFS believes there is a significant threat to white abalone from poaching because abalone as a group continue to be highly prized and in demand as food by humans.

Between July 1999 and April 2001, 135 citations were issued for violations of Title 14, 29.15, which addresses abalone taken out of season, sizes, and overlimits (Gaskins, pers. comm., 2001). Because of the extremely low population size and low density of the surviving adult white abalone in California, any successful poaching efforts will reduce adult densities even further, thereby increasing the likelihood of recruitment failure and risk of extinction. The identification of critical habitat for white abalone would disclose to the public those limited areas where the species may currently exist, and, therefore, NMFS believes such an action will increase the threat of poaching to white abalone.

In addition, the available information indicates that habitat degradation or loss was not responsible for the dramatic reduction in abundance of white abalone. It is probable that the isolated location of the northern and southern Channel Islands, where most white abalone were historically harvested, and the relatively deep depth of white abalone habitat throughout its range have limited the impacts of anthropogenic habitat alterations. NMFS believes that the continued isolation of white abalone habitat from human activities serves to protect that habitat. Given the distribution of the white abalone habitat between Point Conception and the Mexican border and the fact that much of it is isolated in the Channel Islands, there are few Federal activities (e.g., oil and gas development, mining, dredge disposal) that have the potential to impact white abalone habitat between Point Conception and the Mexican border. In the case of oil and gas development, for example, future oil and gas leasing which could potentially lead to more exploration and development in this area is not expected to occur in the foreseeable future because of a Presidential moratorium that prohibits leasing through the year 2012. Although there are a small number of existing leases where very limited exploration may occur in the future, this activity would be focused in only a few locations well offshore from areas that might contain white abalone habitat. Hard minerals exploration and mining in coastal areas south of Point Conception are not constrained by the Presidential moratorium, but there are no such activities occurring at present and none are expected in the foreseeable future. Because few, if any, Federal activities are likely to affect white abalone habitat, NMFS believes that there are minimal additional regulatory benefits through ESA section 7 that are likely to accrue to the species from the designation of critical habitat.

After considering the increased risks to white abalone from poaching that would be more likely to occur as a result of a critical habitat designation, and noting the benefits that may accrue to the species from such a designation, NMFS does not believe that a designation would provide significant benefits that outweigh the increased risks (see 50 CFR 424.12(a)(1)(i)). Based on all of the above NMFS has determined that it is not prudent to

designate critical habitat for white abalone at this time.

Issue 4: Need To Initiate a White Abalone Recovery Program

Comment: Several commenters strongly urged NMFS to initiate a recovery effort for white abalone as soon as possible because they believe that the population only consists of a very few, older individuals and successful reproduction is unlikely to occur at present densities. These commenters also urged NMFS to establish breeding programs, including outplanting and monitoring of laboratory reared animals, in an effort to provide for the continued existence of white abalone.

Response: NMFS recognizes that the continued existence of white abalone is precarious and that the species is at a high risk of extinction in the near future. For this reason, NMFS agrees there is an urgent need to embark on a recovery effort for this species as soon as possible. NMFS is committed to this effort and intends to take a lead role in white abalone recovery, including the establishment of a white abalone recovery team and the development of a recovery plan. NMFS also continues to be supportive of the restoration efforts promoted by the White Abalone Restoration Consortium, which includes the collection of white abalone broodstock followed by spawning and rearing of progeny in the laboratory for subsequent re-establishment in the wild. NMFS believes that efforts such as these will be crucial to ensuring the continued survival and long-term recovery of white abalone.

Status of White Abalone

Section 3 of the ESA defines the term "endangered species" as any species that is in danger of extinction throughout all or a significant portion of its range. The term "threatened species" is defined as "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." NMFS considered the following factors in evaluating the risks facing white abalone and in making a determination as to its current status: (1) Current abundance in relation to historical abundance; (2) trends in abundance; (3) spatial and temporal distribution and effective population size, and (4) natural and human influences. A discussion of these factors with respect to white abalone is presented in detail below.

1. Current Abundance in Relation to Historical Abundance

a. *Historical Abundance.* Estimates of pre-exploitation abundance of white abalone can be made from both fishery-independent and fishery-dependent data and by using an estimate of the total area of white abalone habitat within the species range. Based on a historical range between Point Conception and Punta Eugenia and on the assumption that 3 percent of the area within depth contours of 25 to 65 m (82-213 ft) is rocky reef habitat, Davis *et al.* (1998) estimated the total area of white abalone habitat throughout the species' range to be 966 hectares (ha). Using Tutschulte's (1976) density estimate of 0.23 white abalone/m2, Hobday and Tegner (2000a) estimated a pre-exploitation abundance of 2,221,800 animals. Hobday and Tegner (2000a) calculated a second pre-exploitation population abundance estimate for white abalone in Mexico of 2.12 million individuals using fishery-independent data from surveys conducted by Guzman and Proo *et al.* (1976) between 1968 and 1970 along the west coast of Baja California within the depth range of 0 to 27 m (0-89 ft). Hobday and Tegner (2000a) then doubled this estimate to account for white abalone in California and calculated a pre-exploitation estimate of white abalone abundance of 4.24 million animals throughout the range of the species. This second larger estimate incorrectly assumes that white abalone were found throughout the area surveyed (i.e., in southern Baja, California), and therefore, may overestimate white abalone abundance.

Hobday and Tegner (2000a) also calculated a pre-exploitation abundance of white abalone using fishery-dependent data. Between the peak years of white abalone exploitation in California, approximately 605,807 lbs (274,792 kg) of white abalone were landed. Assuming each abalone weighs 1.67 lbs (.76 kg), then a total of 362,759 animals were harvested. Since it would have taken 10 years for white abalone to reach California's legal size limit, and the fishery collapsed after only 10 years of exploitation, Hobday and Tegner (2000a) assume that all legal-sized adults were harvested every year. If total catch in the 10-year period represents the total accumulated virgin stock and there was no recruitment, they estimated the pre-exploitation California population size equals the total catch between 1969 and 1978 which was crudely estimated to be 362,759 animals. If this figure is doubled to include Mexico, the historical abundance is estimated to be 725,518 white abalone throughout its historical range. However, the actual pre-exploitation abundance must have been greater because some white abalone were harvested in subsequent years, some animals were lost to natural mortality, and white abalone from the recreational catch were not included in the estimate. Not all of the pre-exploitation estimates account for cryptic white abalone.

b. *Current Abundance.* Using a research submersible vessel, the first deep-reef surveys for white abalone were conducted near Santa Barbara, Anacapa, and Santa Cruz Islands, and on Osborn Bank in 1996 and 1997 (Davis *et al.*, 1998). After searching 77,070 m^2 (829,601 ft^2) of rocky reef between 27 and 67 m (89 and 220 ft) depth, only nine live white abalone were found. Assuming that population densities of white abalone estimated from these surveys (i.e., 0.000167 white abalone/m^2, ±0.0001) were representative of white abalone densities throughout their entire range and that the total available habitat within the species range is 966 ha (2,386 acres), Hobday and Tegner (2000a) estimated that the population size throughout the entire range of the species was 1,613 white abalone. They concluded from these results that white abalone are absent or at extremely low densities at all depths and areas surveyed. Using these same data, Davis *et al.* (1998) estimated that fewer than 1,000 white abalone existed in 1996-1997 throughout the species range and concluded that these submersible surveys both confirmed the "critically low" population density and demonstrated the lack of a *de facto* refugia beyond normal SCUBA depths.

In October 1999, scientists conducted another deep-reef survey for white abalone near Santa Cruz, Anacapa, Santa Barbara, San Clemente and Santa Catalina Islands and on Osborn, Farnsworth, Tanner and Cortez Banks using a submersible vessel (Haaker *et al.*, 2000; Hobday and Tegner, 2000b). In contrast to the 1996-1997 submersible surveys, the areas selected for the October 1999 study were the areas where the greatest amount of white abalone had been removed by the commercial and recreational fisheries in the 1970s. This survey covered approximately 57.5 ha (142 acres) (Haaker *et al.*, 2000) of suitable white abalone habitat, at a depth between 19 and 65 m (62 and 213 ft), and found 157 live white abalone with an average density of 0.00027 white abalone/m^2 or 2.7 white abalone per ha.

The 1996-1997 and 1999 surveys for white abalone in California covered approximately 6 percent of the estimated 966 ha (2,386 acres) of suitable habitat throughout the species'

range, so Hobday and Tegner (2000b) combined data from these surveys and calculated another estimate of current population abundance. Based on the estimated potential habitat (966 ha or 2,386 acres) and the area-specific white abalone densities, Hobday and Tegner (2000b) calculated a revised current population abundance of 2,540 individuals throughout the range of the species.

In October and November of 2000, NMFS and the California Department of Fish and Game (CDFG) conducted a remotely operated vehicle survey for white abalone in the vicinity of Catalina Island, San Clemente Island, Cortes Bank, and Tanner Bank. These survey localities constituted areas which historically accounted for more than 90 percent of all white abalone landings. The number of white abalone observed by both the pilot and an observer were counted for each dive and video tapes of each dive were re-analyzed after the survey to confirm identifications and to count cryptic animals. Transects were only conducted on rocky substrates and at depths ranging from 35-65 m where white abalone are normally found. Based on the results of this survey, the white abalone population in U.S. waters was estimated as 1,658 individuals with a 95-percent confidence interval of 174-15,579 individuals. The high variance associated with this estimate is due to the variability in the numbers of white abalone observed in the transects.

All of these historical and current white abalone abundance estimates are likely to be biased for several reasons. First, the total amount of white abalone habitat may be more or less than the 3-percent assumed area within the depth range between 25 and 65 m (82-213 ft), and the amount of habitat may vary among different geographic areas (Hobday and Tegner, 2000b). Second, since the exact width of the submarine transects are not known, the area actually surveyed may be larger or smaller than that which was assumed. In addition, since white abalone prefer low relief rocks covered with foliose algae near sand at depths between 40-60 m, observers collecting data during surveys may preferentially search these areas. Finally, in 1996 alone, 12,307 kg (27,132 lb) of white abalone were reported in Mexican commercial abalone landings. Based on an average weight of 1.67 lb (0.75 kg) per white abalone, landings of this magnitude would lead to an approximation of 32,000 white abalone (Hobday and Tegner, 2000a). If the Mexican landings data are correct, the current white abalone density estimates based on fishery-independent data may be too low.

2. Trends in Abundance

a. *Commercial Fishery Data—California.* Commercial white abalone harvest began in 1967, at a time when the total abalone landings in California began to decline (Hobday and Tegner, 2000a). Over 95 percent of the commercial white abalone landings occurred within the 9-year period between 1969 and 1977. White abalone landings peaked at 144,000 lbs (86,000 individuals) in 1972, only 3 years after intense harvest began. The decline in white abalone landings was so dramatic by 1978 (less than 5,000 lbs (2270 kg) landed), that the CDFG no longer required white abalone to be reported separately on commercial landings receipts. Between 1987 and 1992, only 11 white abalone were voluntarily reported in commercial landings, and, since 1992, none have been reported.

b. *Recreational Fishery Data—California.* Data on the recreational catch of abalone in California comes from commercial passenger dive boats (Hobday and Tegner, 2000a). Between 1971 and 1993, white abalone comprised 1.29 percent of the total, and 2.89 percent of the "identified," recreational abalone catch in California. Most of the catch was harvested from Santa Catalina and San Clemente Islands. Recreational harvest of white abalone peaked at about 35,000 animals in 1975, then declined sharply. By 1986, white abalone were rarely reported as landed by divers using commercial dive boats. Abalone catch from recreational divers not using commercial dive boats has not been quantified.

c. *Commercial Fishery Data—Mexico.* Data on abalone landings in Mexico are limited because species-specific catch data are sparse. Before 1984, Mexico did not require commercial abalone fishermen to land abalone in the shell, the only visual identifying characteristic. Prior to about 1990, Hobday and Tegner (2000a) found no data on the number or weight of white abalone landed in Mexico. Often, available data were temporally and spatially inconsistent and contradictory.

Although white abalone are deep-living and often difficult to find, they were harvested in Mexico prior to 1931 because the tender meat attracted a high price (Croker, 1931). Historically, white abalone comprised only a few percent of the total abalone in Baja California. However, in certain cooperatives, white abalone was sometimes a significant portion of the abalone catch (Hobday and Tegner, 2000a). For instance, between 1992 and 1994, white abalone represented about 65 percent of the catch of one Mexican fishing cooperative. Since the total abalone catch for that cooperative was 57,983 lbs (26,301 kg) of meat, 65 percent of the catch represents a large amount of white abalone meat (i.e., 37,689 lbs or 17,096 kg). Hobday and Tegner (2000a) suggest that this harvest may represent overharvesting of newly located reefs, because that harvest rate was not sustained in subsequent years.

Data from Zone 1 (the northernmost portion of the species range in Mexico) from 1990 to 1997 indicate that white abalone represented only 0.73 percent of the total abalone catch (Hobday and Tegner, 2000a). In this same zone, no catch trends are evident for any abalone species. White abalone were not harvested south of Zone 1 from 1993 to 1998. Although the data are limited, it appears that in those areas, catch-per-unit-effort of abalone declined from 205 to 18 kg/boat/day (452 to 40 lbs) between 1958 and 1984, respectively (Guzman del Proo, 1992, as cited in Hobday and Tegner, 2000a).

Since 1981, total abalone catch has remained near 800-1000 tons (726 - 907 metric tons), with most abalone harvested from Cedros Island. From 1993 to 1998, the price of abalone in Mexico remained constant and is an important source of income for the region (Ponce-Diaz *et al.*, 1998, cited in Hobday and Tegner, 2000a). Based on trends in landings, Mexico's white abalone populations may be depleted (Guzman del Proo, 1992), though perhaps not as severely as in the United States (Hobday and Tegner, 2000a).

d. *Recreational Fishery–dependent Data—Mexico.* Although there is no recreational abalone fishery in Mexico, the collection of intertidal abalone is thought to occur at some unknown level (Hobday and Tegner, 2000a).

e. *Summary of Trends.* Survey assessments for white abalone have been limited in number and are spatially separate (Hobday and Tegner, 2000a). For this reason and because relatively few white abalone were observed, estimates of white abalone density based on fishery-independent data collected during surveys in the 1980's and 1990's are imprecise. The current white abalone abundance estimates based on these survey data may also be biased due to assumptions about the total amount of white abalone habitat currently available (e.g., 3 percent) and the amount of area actually surveyed. Nevertheless, data collected from the white abalone surveys represent the best available scientific information on the species.

The results of the series of fishery-independent abalone surveys conducted in the early 1980s and 1990s indicate that white abalone density may have declined by several orders of magnitude in California since 1970 (Hobday and Tegner, 2000a). Over the last 30 years, white abalone abundance has declined from approximately 2.22 to 4.24 million animals (pre-exploitation) to approximately 1,613 to 2,540 animals throughout the species' range. This decline represents a decrease in white abalone abundance of over 99 percent since exploitation began in the late 1960s. Review of the commercial landings data also indicates a significant decline in white abalone abundance, from a peak of 144,000 lbs (65,318 kg) in 1972 to less than 1,000 lbs (454 kg) in 1979, after only a decade of commercial exploitation.

3. Spatial and Temporal Distribution and Effective Population Size

In addition to the absolute number of individuals in a population or species, the spatial and temporal distribution of individuals is critical for successful fertilization, recruitment, and survival of local populations. Reproductive failure will occur below a threshold population density because surviving individuals are so few and so scattered that they cannot find mates. This is commonly referred to as the "Allee Effect" (Primack, 1993). Individuals that are close enough to find mates may still not produce offspring because of other factors such as age, poor health, sterility, malnutrition, and small body size (Primack, 1993). As a result of these factors, the "effective population size" of breeding individuals will be substantially smaller than the actual population size.

Even with high adult densities, abalone recruitment is highly variable and unpredictable (Davis *et al.*, 1996). Based on results from modeling and experiments with sea urchins, Pennington (1985) demonstrated that successful fertilization for broadcast spawners requires that males and females be close enough for free-swimming sperm to contact eggs in sufficient densities. Juvenile abalone recruitment severely declines or ceases in abalone populations that are depleted below approximately 50 percent of virgin stock levels (Shepherd and Brown, 1993; Richards and Davis, 1993). Price *et al.* (1988) found that abundance of breeding animals determined recruitment for the Australian abalone species, *Haliotis* rubra. Thus, despite the fact that adult abalone broadcast millions of sperm and eggs and their offspring have a planktonic larval phase, locally reduced adult abalone densities can result in lower local recruitment. More recently, Babcock and Keesing (1999) found that, for the Australian abalone species, *Haliotis laevigata*, recruitment failure occurred when the mean nearest neighbor distances were over 1-2 m (3.3–6.6 ft) or when densities fell below 0.3 animals/m^2. They also speculate that reductions in abalone densities may further reduce reproductive success by limiting the ability to synchronize reproductive behavior.

Because abalone are slow-moving bottom dwellers, their ability to aggregate during spawning to overcome even relatively small distance separations is extremely limited. If the current estimate of white abalone density (e.g., 0.00027 white abalone/m^2) is representative throughout most of the range of the species, it is far below that necessary to produce gamete concentrations high enough for effective fertilization. Based on the current estimated average distance of approximately 50 m (164 ft) between white abalone adults, the chance of successful fertilization and regular production of viable cohorts of juvenile white abalone is extremely low (Davis, 1998).

The density of white abalone observed during the 1999 submersible survey varied from 0 to 9.76 abalone per ha (Hobday and Tegner, 2000b). The highest densities were found at Tanner Bank, an offshore area where distance, average sea conditions, and navigational challenges may have reduced white abalone fishing effort. Of the 157 white abalone found in the October 1999 submersible survey, nearly 80 percent were individuals where the nearest neighbor was more than 2 m (6.6 ft) away (Hobday and Tegner, 2000b). Twenty percent of the white abalone observed were found in "groups" of two, and one group of four was found. Although these groups have the potential to produce offspring if at least one male and one female occurs in each group, it is still likely that the effective population size of the species is currently very small (Hobday and Tegner, 2000b).

The size and frequency of empty abalone shells observed during surveys can also indicate local population structure and whether habitat is suitable for survival. For example, about 20 percent of the empty shells near stable red abalone populations with regular juvenile recruitment are juvenile-sized shells (Hines and Pearse, 1982, reported in Davis *et al.*, 1996). In contrast, the percentage of juvenile-sized empty shells found near a red abalone population on the verge of collapse at Santa Rosa Island dropped from 22 percent to 6 percent as recruitment and adult densities declined (Tegner *et al.*, 1989; Davis *et al.*, 1992, reported in Davis *et al.*, 1996).

Davis *et al.* (1996) found that during the 1992-1993 SCUBA surveys for white abalone, most of the empty shells and live individuals were probably more than 25 years old (>140 mm or 5.5 inches). All of these shells, except one, were adult size (>50 mm or 2 inches) and most were between 131 and 180 mm (5 and 7 inches). During the 1996-1997 white abalone surveys, over 300 empty shells were observed. All of these shells appeared to be over 25 years old (Davis, G., pers. comm., February 2000). These observations indicate that the survey sites were previously inhabited by white abalone. Davis *et al.* (1998) concluded that these older abalone represent the last major cohort recruited to the population. This cohort would have been spawned in the late 1960s or early 1970s and survived because they would have been too small to be legally harvested during the peak of the fishery in the 1970s.

4. Other Natural and Human Influences

See subsections (A), (C), and, (E) in the section of this notice entitled "Summary of Factors Affecting White Abalone."

Summary of Factors Affecting White Abalone

Section 4(a)(1) of the ESA and the listing regulations (50 CFR part 424) set forth procedures for listing species. NMFS must determine, through the regulatory process, if a species is endangered or threatened based upon any one or a combination of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) inadequacy of existing regulatory mechanisms; or (E) other natural or human-made factors affecting its continued existence. NMFS' status review for white abalone (Hobday and Tegner, 2000a), which includes a review of current and historical factors affecting white abalone, identifies overutilization for commercial purposes as the primary reason for the decline of white abalone (Hobday and Tegner, 2000a). The following discussion summarizes NMFS' findings regarding the factors responsible for the decline of white abalone.

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

Loss or modification of habitat is not likely to have been a factor in the decline of white abalone. Hobday and Tegner (2000a) conclude that natural or anthropogenic white abalone habitat losses are unknown. However, due to the isolation of the offshore islands off southern California and northern Baja California, and the depth range of the species, anthropogenic impacts to white abalone habitat should be limited near the islands. The CDFG believes that direct threats to white abalone are limited, especially on the islands offshore of southern California, but indicated that mainland habitat may have been affected to an "unknown extent" for a variety of unspecified land-based human activities. Historically, pollution did affect shallow water abalone habitat (i.e., *Macrocystis* kelp forests) along the Palos Verdes Peninsula in the 1950s which resulted in a decline in certain shallow water abalone populations (Tegner, 1989; 1993). The source of that pollution has been controlled, however, and it is no longer affecting abalone habitat in that area.

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

White abalone abundance has declined significantly throughout its range as a result of overutilization for commercial and recreational purposes. Hobday and Tegner (2000a) suggest that white abalone in California were subject to "serial depletion" by the commercial fishery during the early 1970s. Due to their life history characteristics as slow-moving bottom dwellers with external fertilization, abalone are particularly susceptible to local and subsequent serial depletion. If female abalone are not within a few meters of males when they both spawn, the sperm will be too diluted by diffusion to fertilize the eggs (Davis *et al.*, 1996). As local abalone density declines, the probability of successful fertilization and subsequent recruitment decreases. Serial depletion occurs as fishermen shift from exploited to unexploited fishing areas due to local depletion. Total landings may remain constant in the short term. Eventually, however, if all areas are harvested at unsustainable levels, recruitment failure occurs on a region wide basis. The CDFG believes that the most significant threat to white abalone is related to the effects of low population abundance on continued white abalone reproduction, survival and recovery.

White abalone catch data from California indicate that over 80 percent of the white abalone landings were taken from San Clemente Island. The offshore Tanner Bank and Cortez Bank-Bishop Rock region provided 13 percent of the total catch. Between 1965 and 1975, over 25 percent (average 43 percent) of the white abalone catch in each area came from a single year (Hobday and Tegner, 2000a). If harvest was sustainable, the portion of catch harvested each year at each location should have been more consistent over a period of years. Region-wide landings of white abalone peaked at 144,000 lbs (65,318 kg) in 1972 after only 3 years of commercial exploitation, and declined to less than 10,000 lbs (4,535 kg) in 1977. By 1978, white abalone landings were so negligible (<1,000 lbs or 454 kg) that CDFG no longer collected landings data for the species.

Hobday and Tegner (2000a) suggest that the increasing value of abalone may have contributed to increased fishing pressure. For example, the price of white abalone increased from about $2.50 per pound in 1981 to about $7 per pound in 1993. As the catch of all abalone declined, the total and per-unit value of the harvest continued to increase. White abalone was usually the most valuable species and by 1988, white abalone was worth twice the value of other abalone species (Davis *et al.*, 1996).

C. Disease or Predation

First detected in 1985, withering syndrome disease has significantly affected west coast abalone species, especially the black abalone. Withering syndrome also occurs in pink, red, and green abalone (Alstatt *et al.*, 1996, cited in Hobday and Tegner, 2000a). Withering syndrome has recently been identified as a ricksettia bacterium that affects the digestive glands of abalone. Surveys of black abalone suffering from withering syndrome found large numbers of empty black abalone shells. Hobday and Tegner (2000a) suggest that large numbers of empty white abalone shells should have been detected during the abalone surveys of the 1980s if white abalone were significantly affected by withering syndrome.

In 1990, 20 freshly dead white abalone with undamaged shells that could have been killed by withering syndrome were collected from Santa Catalina (Tegner *et al.*, 1996). In 1993, two live white abalone were collected from Santa Catalina Island and diagnosed with withering syndrome, and a white abalone in captivity recently died and showed symptoms of withering syndrome. Although withering syndrome may affect white abalone at some frequency, it is unlikely to have been a major factor in the decline of the species. The mass mortalities associated with the outbreak of withering syndrome in black abalone populations resulted in large numbers of shells which were easily detected in surveys (Hobday and Tegner, 2000a). If white abalone were similarly affected in large numbers, large numbers of shells or affected individuals of all size classes would have been detected in the surveys of the early 1980's, but this was not the case.

Several abalone predators have been documented, including sea stars, fish, crabs, octopuses, and sea otters (Hobday and Tegner, 2000a). Although increases in abundance of these predators could be related to declines in white abalone abundance, no information is available on the density of the invertebrate predators in white abalone habitat. Predation by sea otters is not likely to have been a major factor in the decline of white abalone due to its depth range and latitudinal distribution. In California, sea otters seldom forage below 20-25 m, and with the exception of San Miguel and San Nicolas Islands, otters do not occupy the same geographic range as white abalone. The CDFG believes that factors such as disease or predation may have contributed to the decline of white abalone but are not currently a major factor affecting the species' continued existence.

D. The Inadequacy of Existing Regulatory Mechanisms

Because white abalone has experienced significant declines in abundance throughout its range as a result of commercial over harvesting, harvest regulations for white abalone during the major period of its decline in the 1970s were clearly inadequate to conserve the resource and maintain white abalone harvest at sustainable levels.

The establishment of minimum size limits has been a strategy used worldwide to manage the harvest of abalone on a sustainable basis (Hobday and Tegner, 2000a). In California, minimum size limits were established for abalone that were greater than the size of sexual maturity which should have allowed for several years of reproduction before the animals reached legal harvest size. However, successful reproduction does not necessarily occur each year. If reproductive failure occurs for several years, abalone could reach legal size and be removed by the fishery before they have successfully reproduced and contributed offspring to

the population. California also prohibited abalone harvest during the spawning season. Other regulations, such as bag limits for recreational fishermen, and limited entry, were also implemented by California as abalone management measures.

In 1970, California established a permit fee of $100 for both divers and crew members (Burge *et al.*, 1975; cited in Hobday and Tegner, 2000a). The diver fee increased to $200 in 1975 and finally reached $330 in 1991. Relative to permit fees charged by other countries to harvest abalone (e.g., Tasmania, South Australia), these relatively low fees did not promote sustainable abalone fishing in California.

California's abalone management did not prevent serial depletion of white abalone or promote sustainable harvest practices in the 1970s. In 1996, the California Fish and Game Commission closed the California white abalone fishery to protect the surviving adults (Davis *et al.*, 1998). NMFS does not have present documentation that Mexico has closed its commercial white abalone fishery or limited white abalone fishing.

The intentional capture of sub-legal abalone (i.e., poaching) before they contributed substantially to the population could have reduced the reproductive potential of white abalone (Hobday and Tegner, 2000a); however, this is not likely to have been a major factor in the decline of white abalone because the State of California has required all commercially caught abalone to be landed in the shell. In Mexico, during a survey in 1973, a substantial portion of the commercial white abalone catch was found to be undersized. The impact of illegal white abalone harvesting as a factor of the species' decline is difficult to evaluate in Mexico, but was probably not a major factor in California.

Because abalone has no blood clotting ability, cut animals bleed to death (Cox, 1962, cited in Hobday and Tegner, 2000a). Burge *et al.* (1975) found that accidental cutting of sub-legal sized abalone is a significant cause of mortality and could have further reduced white abalone abundance (Hobday and Tegner, 2000a). For example, mortality due to cutting during collection of sub-legal red abalone was estimated at 60 percent from small cuts in the lab, and almost 100 percent in the field. Even undersized abalone that are handled and replaced without being cut suffer a 2 to 10-percent mortality in the field. Under-sized abalone may also be subject to predation before they have a chance to reattach to the substrate.

E. Other Natural or Manmade Factors Affecting Their Continued Existence

Long-term or short-term changes in ocean conditions could affect both larval and adult abalone (Hobday and Tegner, 2000a). For example, periodic El Nino conditions increase surface water temperatures above optimum larval survival levels. In addition, due to the periodicity of these events, Hobday and Tegner (2000a) suggest the warming events would lead to recruitment failure. The influence of some diseases may increase during periods of warm water conditions. Warm water has also been associated with depleted nutrients in the ocean, declines in *Macrocystis*, and the availability of drifting algae material. The direct or indirect impacts of increasing water temperatures within the depth range on white abalone are unknown. Harvesting of *Macrocystis pyrifera* has been shown to have little effect on shallow-living abalone species (Tegner, 1989) and could even benefit abalone by providing greater amounts of drift algae (Hobday and Tegner, 2000a). For these reasons, habitat loss or modification are not likely to have been factors of decline of white abalone.

Competition from sea urchins and other abalone species for food and space could have been a factor in the decline of white abalone. For instance, increasing trends in abundance of sea urchins (*Strongylocentrotus purpuratus and S. franciscanus*) could have limited the amount of algae available for juvenile or adult white abalone consumption (Hobday and Tegner, 2000a). Although these potential ecological interactions have not been studied in the field, the densities of these potential competitors are also currently low and are no longer likely to limit white abalone abundance (Hobday and Tegner, 2000a).

Hybridization of white abalone with other more abundant California abalone species could potentially lower white abalone population size (Hobday and Tegner, 2000a). Natural hybridization between other California abalone species and white abalone has been observed. Owen *et al.* (1971) found that disturbance, high sea urchin frequency, and low abundance of one parent species increased the frequency of abalone hybrids. However, because large numbers of white abalone hybrids have not been found in the field, Hobday and Tegner (2000a) conclude that hybridization of white abalone with other abalone species is unlikely to have led to a decline of the species.

Efforts Being Made To Protect White Abalone

Section 4(b)(1)(A) of the ESA requires the Secretary of Commerce to make listing determinations solely on the basis of the best scientific and commercial data available and after taking into account efforts being made by any state or foreign nation to protect a species, by predator control, protection of habitat and food supply, or by other conservation practices. In making this listing determination, therefore, NMFS must consider white abalone status and the factors that have led to its decline, as well as state or foreign conservation efforts that may ameliorate the risks faced by the white abalone.

In judging the efficacy of state or foreign conservation efforts, NMFS considers the following: (1) The substantive, protective, and conservation elements of such efforts; (2) the degree of certainty that such efforts will be reliably implemented; and (3) the presence of monitoring provisions that determine effectiveness and that permit adaptive management (NMFS, 1996b). In some cases, conservation efforts may be relatively new and may not have had time to demonstrate their biological benefit. In such cases, provisions for adequate monitoring and funding of conservation efforts are essential to ensure intended conservation benefits are realized.

State of California Conservation Measures for White Abalone

The CDFG has conducted and/or participated in several SCUBA and submersible surveys documenting the distribution and abundance of white abalone (1980-81, 1992-93, 1996-97, and 1999). The data and information gathered from these surveys have contributed to a better understanding of the decline of white abalone. Because the state required that abalone fishermen submit landings data, the precipitous decline of white abalone in the 1970s was documented. As mentioned previously, the state closed white abalone fishing in 1996, thereby eliminating the factor most responsible for the species' decline. The closure of all abalone fisheries in southern California in 1997 has also reduced the likelihood of accidental harvest or poaching of white abalone in California. Despite these state conservation measures, the species may not survive without human intervention because most of the remaining individuals are too far apart to successfully reproduce.

Mexican Conservation Measures for White Abalone

At present, NMFS does not know whether Mexico has closed its white abalone fishery or instituted other conservation measures to protect the species. Pursuant to 50 CFR 424.16, NMFS provided Mexico with a notification that it had published a **Federal Register** document proposing to list the white abalone which occurs along the coast of both the United States and Mexico, and also invited Mexico to provide any information or comments it may have on the proposal. In addition, NMFS requested that Mexico provide the agency with information on any conservation measures it may have implemented to protect the white abalone. To date, Mexico has not responded to this request for comments and information.

Private-public Partnerships

Due to concern over the depleted status of white abalone, a consortium of scientists, fishermen, conservation organizations, universities, Federal and state agencies, and mariculturists in private enterprise have joined together to develop and execute a plan to restore white abalone populations (Davis *et al.*, 1998). The White Abalone Restoration Consortium (Consortium) has developed the following four-step restoration plan: (1) Locate surviving white abalone by surveying historical habitat; (2) collect brood stock; (3) breed and rear a new generation of brood stock; and (4) re-establish refugia of self-sustaining brood stocks in the wild. The Consortium has also initiated an outreach program to raise public awareness of the status of white abalone and restoration efforts. Particularly challenging is the ability to increase public awareness of a relatively small and unknown marine invertebrate. Because nearly 25 years of artificially producing and outplanting juvenile and younger red abalone in California have failed to demonstrate effective population restoration, the Consortium is advocating that captive-born white abalone be reared until 4 years of age (>100 mm or 4 inches). Federal, state, and private grants and funds have recently supported white abalone submersible surveys and the establishment of an aquaculture facility specifically designed to breed white abalone in captivity and rear offspring to adulthood for outplanting to the wild.

NMFS recognizes that many of the existing conservation measures described here can serve to protect the remaining white abalone survivors, but they do not yet provide for white abalone conservation at a scale that is adequate to protect and recover the species. Due to the extremely low population abundance of white abalone throughout its range, NMFS believes that the existing protective measures alone will not be sufficient to reduce the risk of white abalone extinction in the near future.

Listing Determination

The ESA defines an endangered species as any species in danger of extinction throughout all or a significant portion of its range, and a threatened species as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532(6) and (20)). Section 4(b)(1) of the ESA requires that the listing determination be based solely on the best scientific and commercial data available, after conducting a review of the status of the species and after taking into account those efforts, if any, being made by any state or foreign nation to protect and conserve the species.

The available white abalone landings data and analysis of fishery-independent data indicate that over the last 30 years, white abalone has declined in abundance by over 99 percent and several orders of magnitude. Most of the remaining survivors are old and so scattered that they will not be able to find mates to spawn successfully and regularly produce viable cohorts of juveniles. While NMFS recognizes that many of the existing conservation measures help protect the remaining white abalone, they do not yet provide for white abalone conservation at a scale that is adequate to protect the species.

Based on a review of the best available information, including the findings from NMFS's white abalone status review, information received in the petition to list white abalone as an endangered species, other published and unpublished information, and comments on the listing proposal, NMFS has determined that white abalone are in danger of extinction throughout all or a significant portion of their range, and therefore, warrant listing as an endangered species throughout its range in the United States and Mexico.

Prohibitions and Protective Measures

Section 9 of the ESA prohibits certain activities that directly or indirectly affect endangered species. These prohibitions apply to all individuals, organizations and agencies subject to U.S. jurisdiction. Section 9 prohibitions apply automatically to endangered species.

Sections 7(a)(2) and (4) of the ESA require Federal agencies to consult with NMFS to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or a species proposed for listing, or to adversely modify critical habitat or proposed critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with NMFS. Examples of Federal actions that may affect white abalone include coastal development, outfall construction and operation, power plant permitting, oil and gas exploration and development, etc.

Sections 10(a)(1)(A) and (B) of the ESA provide NMFS with authority to grant exceptions to the ESA's Section 9 ≥take≥ prohibitions. Section 10(a)(1)(A) scientific research and enhancement permits may be issued to entities (Federal and non-Federal) for scientific purposes or to enhance the propagation or survival of a listed species. The type of activities potentially requiring a section 10(a)(1)(A) research/enhancement permit include scientific research that targets white abalone, collection of adult white abalone for artificial propagation purposes, and aggregation or relocation of white abalone to enhance the potential of natural propagation in the wild.

Section 10(a)(1)(B) incidental take permits may be issued to non-Federal entities performing activities that may incidentally take listed species, as long as the taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Conservation Measures

Conservation measures that may apply to listed species include conservation measures implemented by states, foreign nations, local governments, and private organizations. Also, Federal, state, and foreign nations' recovery actions, Federal consultation requirements, and prohibitions on taking constitute conservation measures. In addition, recognition through Federal government or state listing promotes public awareness and conservation actions by Federal, state, tribal governments, foreign nations, private organizations, and individuals.

Based on information presented in this final rule, general protective and conservation measures that could be implemented to help conserve white abalone, but which do not constitute NMFS' interpretation of a recovery plan under section 4(f) of the ESA, include the following:

1. Continue the state prohibition on commercial and recreational white abalone fishing in California.
2. Continue efforts to locate white abalone in California and Mexico by surveying historic habitat.
3. Collect white abalone brood stock, spawn the brood stock, rear the offspring to early adulthood, and outplant the next generation in the wild.
4. Collect and aggregate adult white abalone in the wild to facilitate successful reproduction in the field.
5. Promote protection and conservation of white abalone in Mexico.

Take Guidance

NMFS and the FWS published in the **Federal Register** on July 1, 1994, (59 FR 34272), a policy that NMFS shall identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the ESA. The intent of this policy is to increase public awareness of the effect of this listing on proposed and ongoing activities within the species' range. NMFS believes, based on the best available information, the following actions will not result in a violation of section 9:

1. Possession of white abalone which are acquired lawfully by permit issued by NMFS, pursuant to section 10 of the ESA, or by the terms of an incidental take statement, pursuant to section 7 of the ESA.
2. Federally funded or approved projects for which ESA section 7 consultation has been completed, and when activities are conducted in accordance with any terms and conditions provided by NMFS in an incidental take statement accompanying a biological opinion.

Activities that NMFS believes could potentially harm white abalone, and result in a violation of ESA section 9 take prohibitions include, but are not limited to:

1. Coastal development that adversely affects white abalone (e.g., dredging and other coastal construction projects).
2. Destruction/alteration of white abalone habitat, such as the harvesting of algae.
3. Discharges or dumping of toxic chemicals or other pollutants (e.g., sewage, oil, gasoline) into areas supporting white abalone.
4. Interstate and foreign commerce of white abalone and import/export of white abalone without a permit.
5. Collecting or handling of white abalone in the United States. Applications may be submitted to NMFS for the purpose of scientific research or to enhance the propagation or survival of the species.

These lists are not exhaustive. They are intended to provide some examples of the types of activities that might or might not be considered by NMFS as constituting a take of white abalone under the ESA and its regulations. Questions regarding whether specific activities will constitute a violation of the ESA section 9 take prohibitions and general inquiries regarding prohibitions and permits should be directed to NMFS (see **ADDRESSES**).

Critical Habitat

See the response to Issue 3 - Need for Designation of Critical Habitat for a complete discussion of critical habitat.
References

A complete list of all cited references is available upon request (see **ADDRESSES**).

Classification

National Environmental Policy Act

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus*, 675 F. 2d 825 (6th Cir. 1981), NMFS has concluded that ESA listing actions are not subject to the environmental assessment requirements of the National Environmental Policy Act (NEPA). (See NOAA Administrative Order 216-6.)

Executive Order 12866, Regulatory Flexibility Act and Paperwork Reduction Act

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. In addition, this final rule is exempt from review under Executive Order 12866. This final rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

Executive Order 13132–Federalism

In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual State and Federal interest, NMFS has conferred with the State of California in the course of assessing the status of white abalone, and considered, among other things, state and local conservation measures. California has expressed support for the conservation of white abalone. The content of this dialogue with the State of California as well as the basis for this action, is described in the **SUPPLEMENTARY INFORMATION** section of this document. As NMFS moves forward with its recovery effort for white abalone, it intends to continue engaging in informal and formal contacts with the State of California, other affected local or regional entities, and those engaged in ongoing conservation efforts for white abalone.

List of Subjects in 50 CFR Part 224

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: May 21 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 224 is amended to read as follows:

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531-1543 and 16 U.S.C. 1361 *et seq.*

2. In § 224.101, paragraph (d) is added to read as follows:

§ 224.101 Enumeration of endangered marine and anadromous species.

* * * * *

(d) *Marine invertebrates.* White abalone (*Haliotis sorenseni*).

[FR Doc. 01–13430 Filed 5–25–01; 8:45 am]
BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 103
Tuesday, May 29, 2001

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–6]

Proposed Amendment of Class D and Class E2 and E4 Airspace; Gainesville, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend Class D and Class E2 and E4 airspace at Gainesville, FL. As a result of relocating and renaming the Gainesville VORTAC (Airspace Docket 00–ASO–35), the VORTAC's position has been recalculated and final approach courses for the VHF Omni-directional Range (VOR) Standard Instrument Approach Procedures (SIAP) have been changed for the Gainesville Regional Airport, Gainesville, FL. This action would amend the lateral limits of the existing Class D and E2 airspace from a 4.3-mile radius to a 4.9-mile radius of the Gainesville Regional Airport. The Class E4 airspace, designated as an extension to a Class D airspace area, would rotate clockwise 12 degree and would amend the extension from the 4.3-mile radius to 2.5 miles northeast of the VORTAC to an extension from the 4.9-mile radius to 2.9 miles northeast of the VORTAC.

DATES: Comments must be received on or before June 28, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 01–ASO–6, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 2636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace docket No. 01–ASO–6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for southern Region, Room 50, 1701 Columbia Avenue, college Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class D airspace and Class E2 and E4 airspace at Gainesville, FL. Class D and Class E airspace designations for airspace areas extending upward from the surface of the earth and Class E airspace designations for airspace areas designated as an extension to a Class D airspace area are published in Paragraphs 5000, 6002 and 6004 respectively, of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D Gainesville, FL [Revised]

Gainesville Regional Airport, FL
(Lat. 29°41′24″ N, long. 82°16′18″ W)Gators VORTAC
(Lat. 29°41′32″ N, long. 82°16′23″ W)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 4.9-mile radius of the Gainesville Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E2 Airspace Designated as Surface Areas

* * * * *

ASO FL E2 Gainesville, FL [Revised]

Gainesville Regional Airport, FL
(Lat. 29°41′24″ N, long. 82°16′18″ W)
Gators VORTAC
(Lat. 29°41′32″ N, long. 82°16′23″ W)

Within a 4.9-mile radius of the Gainesville Regional Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E4 Airspace Areas Designated as an Extension to a Class D Airspace Area

* * * * *

ASO FL E4 Gainesville, FL [Revised]

Gainesville Regional Airport, FL
(Lat. 29°41′24″ N, long. 82°16′18″ W)
Gators VORTAC
(Lat. 29°41′32″ N, long. 82°16′23″ W)

That airspace extending upward from the surface within 2.4 miles each side of the Gators VORTAC 053° radial, extending from the 4.9-mile radius of Gainesville Regional Airport to 2.9 miles northeast of the VORTAC. This Class E4 airspace area is effective during the specific dates and times established in advance by a Notice to Airman. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on May 10, 2001.

Walter R. Cochran,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 01–13309 Filed 5–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–7]

Proposed Amendment of Class D and Class E2 Airspace; Augusta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend Class D and Class E2 airspace at Augusta, GA. As a result of a regional evaluation, it has been determined the Augusta, GA, Bush Field Class D and Class E2 airspace area should be increased to provide adequate controlled airspace for the Airport Surveillance Radar (ASR) Standard Instrument Approach Procedure (SIAP) Runway (RWY) 17. This action would amend the lateral limits of the existing Class D and E2 airspace from a 4.3-mile radius to a 5.3-mile radius of the Augusta, Bush Field Airport.

DATES: Comments must be received on or before June 28, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 01–ASO–7, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-regulated aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 01–ASO–7." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 50, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class D airspace and Class E2 airspace at Augusta, GA. Class D and Class E airspace designations for airspace areas extending upward from

the surface of the earth are published in Paragraphs 5000 and 6002 respectively, of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO GA D Augusta, GA [Revised]

Augusta, Bush Field, GA
(Lat. 33°22′12″ N, long. 81°57′52″ W)

That airspace extending upward from the surface to an including 2,600 feet MSL within a 5.3-mile radius of Bush Field Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E2 Airspace Designated as Surface Areas.

* * * * *

ASO GA E2 Augusta, GA [Revised]

Augusta, Bush Field, GA
(Lat. 33°22′12″ N, long. 81°57′52″ W)

Within a 5.3-mile radius of Bush Field Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on May 16, 2001.

Walter R. Cochran,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 01–13310 Filed 5–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–16]

Establishment of Class E Airspace; Couldersport, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to establish Class E airspace at Charles Cole Memorial Hospital Heliport, Couldersport, PA. Development of an Area Navigation (RNAV) Standard Instrument Approach (SIAP), Helicopter RNAV 343 approach for the Charles Cole Memorial Hospital Heliport has made this action necessary. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing the approach. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before June 28, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 01–AEA16, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809: telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 01–AEA–16". The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket closing both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809. Communications must identify the

notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviaiton Regulations (14 CFR part 71) to establish Class E airspace area at Couldersport, PA. An RNAV Approach, Helicopter RNAV 343, has been developed for Charles Cole Memorial Hospital Heliport, Couldersport, PA. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet from or above the surface are published in Paragraph 6005 of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H dated September 1, 2000, and effective September 16, 2000, is proposed to be amended as follows:

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

* * * * *

AEA PA E5 Couldersport, PA (New)

Charles Cole Memorial Hospital Heliport
Lat. 41°46′16.14″ N/long. 77°58′28″ W)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of the Charles Cole Memorial Hospital Heliport.

* * * * *

Issued in Jamaica, New York, on May 15, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–13311 Filed 5–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 333

[Docket No. 96P–0460]

RIN 0910–AA01

Topical Antifungal Drug Products for Over-the-Counter Human Use; Proposed Amendment of Final Monograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a proposed rule that would amend the final monograph for over-the-counter (OTC) topical antifungal drug products to add the ingredient clotrimazole as generally recognized as safe and effective for the treatment of athlete's foot, jock itch, and ringworm. This proposal is part of FDA's ongoing review of OTC drug products.

DATES: Submit written comments by August 27, 2001. Submit written comments on the agency's economic impact determination by August 27, 2001. See section IX of this document for the effective date of any final rule that may publish based on this proposal.

ADDRESSES: Submit written comments to the Docket Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Gerald M. Rachanow, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2307.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 23, 1993 (58 FR 49890), FDA published a final monograph for OTC topical antifungal drug products in part 333 (21 CFR part 333), subpart C. That monograph includes six antifungal active ingredients used for the treatment of athlete's foot, jock itch, and ringworm and one ingredient used for the prevention of athlete's foot. The monograph provides that two ingredients may contain professional labeling (may be provided to health professionals but not to the general public) for the treatment of superficial infections caused by yeast (*Candida albicans*). A manufacturer submitted a citizen petition (Refs. 1 through 4) to include the antifungal ingredient clotrimazole in the monograph for both the OTC and professional labeling treatment claims. Subsequently, the manufacturer withdrew its request to include clotrimazole in the monograph for the professional labeling treatment claim (Ref. 5).

II. The Agency's Evaluation of the Citizen Petition

A. General Background

Clotrimazole is a member of the imidazole class of antifungal drugs and is recognized in the U.S. Pharmacopeia (Ref. 6). Clotrimazole has been marketed as a topical antifungal at a 1-percent concentration in the United States as a prescription product since 1975 and as an OTC product since 1989 under new drug applications (NDAs) in cream, lotion, and solution dosage forms. The agency notes that clotrimazole has also been marketed OTC in a number of other countries, the first marketing occurring in 1980. Distribution figures (Ref. 1) indicate a significant amount of the drug has been marketed OTC in the United States and other countries since 1990. Miconazole nitrate, a related member of the imidazole class of antifungal drugs, is currently included as an active ingredient in § 333.210(c) of the final monograph for OTC topical antifungal drug products.

B. Safety

The toxicity of clotrimazole has been well-studied (Refs. 1 and 2). Acute

toxicity has been studied in a variety of animal species. When administered intraperitoneally, the LD50 was approximately 500 milligrams/kilogram (mg/kg) for mice and 1,200 mg/kg for rats. Subacute dermal toxicity studies in rabbits (comparing clotrimazole cream or solution to its vehicle) did not reveal any significant dermal or systemic changes. Other dermal tolerance studies showed minimal irritation from clotrimazole, and they showed that skin reactions on rabbits were essentially the same for the drug and the vehicle cream, solution, or lotion. Ocular tolerance studies in rabbits showed slight conjunctival reddening and mild irritation for both clotrimazole cream or solution and its vehicle, which subsided 48 to 72 hours after instillation.

Studies have shown clotrimazole is very poorly absorbed following dermal application. Duhm et al. (Ref. 7) reported that topical administration of radiolabeled 1-percent clotrimazole cream or solution to normal skin resulted in less than 0.5 percent of the activity excreted in the urine up to 5 days after application of the cream and less than 0.05 percent up to 4 days after application of the solution. When the solution was applied to acutely inflamed skin, 0.15 percent of the activity was excreted in the urine. This amount was slightly higher than after applying the solution to normal skin. In all subjects, urinary excretion was largely completed 2 to 3 days after application. No definitely measurable amounts of radioactivity were found in the serum of any of the subjects in whom the radiolabeled clotrimazole cream or solution was applied to intact or inflamed skin until 48 hours after application. The equivalent clotrimazole concentrations were below the detection limit of 0.001 microgram of clotrimazole per milliliter (mL) of serum.

Reproduction studies in animals showed, in general, that clotrimazole was well tolerated and had no teratogenic effect. All reproduction studies (Ref. 1) were done with oral dosing, 25 to 200 mg/kg in mice and rats and 60 to 180 mg/kg in rabbits. The only adverse effects noted were: (1) Lower fetal weights and more resorptions in rats given 100 mg/kg, and (2) clotrimazole at 200 mg/kg was lethal to pregnant rats. Mutagenic studies in Chinese hamsters showed that clotrimazole had no mutagenic effect. An 18-month oral dosing study of clotrimazole in rats did not show any carcinogenic effect.

Clotrimazole has an excellent safety record during its 24-year history of marketing as a prescription and OTC topical antifungal drug in the United States. The manufacturer has reported 555 adverse drug events (ADEs) from March 1975 through March 1996. Of these, 240 (43 percent) are reports of "therapeutic response decrease" (lack of effectiveness) with topical antifungal treatment. The majority of the ADEs were topical and nonserious in nature. Pruritis (itching), rashes, erythema (abnormal redness of the skin), and paresthesia (abnormal sensation of the skin, such as burning, stinging, or tingling) were the most common events reported and are common to all topical antifungal drugs. Rarely, individuals experienced a systemic allergic reaction. The number and nature of reported ADEs is similar before and after clotrimazole OTC marketing in the United States began in 1989.

The contact sensitization potential of 1-percent clotrimazole cream was determined using the Maximization Test (26 subjects) and the Draize Repeat Insult Test (207 subjects) (Ref. 2). No sensitization occurred in either test. There are no known drug interactions, abuse potential, or overdose potential associated with clotrimazole when applied topically to the skin for antifungal use. There have been infrequent reports of consumers mistaking the solution (10 mL container) product for eye drops and instilling it in their eyes. All eye effects reported have been minor and transient and were completely relieved by flushing the eye with water or the passing of a short period of time. Although these effects have been minor, § 333.250(c)(1)(iii) of the monograph for OTC topical antifungal drug products includes the warning: "Avoid contact with the eyes."

C. Effectiveness

Clotrimazole has been shown in a number of controlled studies to be an effective OTC topical treatment for tinea pedis (athlete's foot), tinea cruris (jock itch), and tinea corporis (ringworm). The causative organisms in these studies were primarily the same organisms for which clotrimazole is indicated: *Trichophyton rubrum* (*T. rubrum*), *Trichophyton mentagrophytes* (*T. mentagrophytes*), and *Epidermophyton floccosum* (*E. floccosum*).

Knox, Zaias, and Battistini (Refs. 2 and 3, Delbay 004) compared the antifungal effectiveness of 1-percent topical clotrimazole with its vehicle in 71 subjects (61 subsequently acceptable for efficacy evaluation) who had ringworm (16), jock itch (15), ringworm and jock itch (7), and athlete's foot (23). The fungus infections were mycologically confirmed by KOH (potassium hydroxide) preparation and/or culture. Subjects applied the assigned products (double-blind, randomized, parallel study) twice a day for 28 days and were evaluated clinically weekly for 5 weeks, with samples taken each week for KOH preparation and culture. Of the 61 cases (27 on active and 34 on vehicle) evaluated, mycological conversion rates (a change from positive to negative of both KOH preparation and culture) for tinea corporis/cruris were 76 percent (13/17) for active and 5 percent (1/21) for vehicle ($P<0.001$) and for tinea pedis 60 percent (6/10) for active and 0 (0/13) for vehicle ($P=0.002$). The fungus most frequently detected was *T. rubrum*. Eight of 12 subjects (67 percent) in the clotrimazole group who had severe clinical signs and symptoms were clinically cured compared to 0 of 14 in the vehicle group ($P=0.0003$).

Clayton and Connor (Refs. 2, 3, 4, and 8, Delbay 007) compared 1-percent clotrimazole cream (50 subjects) to Whitfield's Ointment (3-percent salicylic acid and 6-percent benzoic acid) (52 subjects) and to nystatin ointment (14 subjects) in treating several fungal infections in a randomized, double-blind trial based on the subject's condition. Subjects with mycologically positive skin infection (by culture and/or microscopy of skin scrapings) were assigned to a test medication depending on their diagnosis. The nystatin ointment arm of the study did not include any subjects with tinea infections and, thus, is not discussed further. Subjects with a fungal infection applied clotrimazole cream or Whitfield's Ointment twice daily for 28 days. Followup examinations were conducted at 2, 4, and 8 weeks for most subjects. There were 100 evaluations of subjects who had ringworm/jock itch and athlete's foot (some subjects had both) and who applied clotrimazole or Whitfield's Ointment. Mycological conversion rates for subjects with ringworm/jock itch were 65 percent (13/20) for clotrimazole and 63 percent (12/19) for Whitfield's Ointment ($P=1.00$), and for subjects with athlete's foot 63 percent (19/30) for clotrimazole and 58 percent (18/31) for Whitfield's Ointment ($P=0.795$). There were no statistically significant differences between the treatments, and the 1-percent clotrimazole cream was considered as effective as Whitfield's Ointment, the accepted treatment available at that time, for treating tinea infections. The investigators noted that there were a greater number of side effects, usually mild irritation or burning, with the Whitfield's Ointment (14 of 52 subjects) than with the clotrimazole cream. Some

subjects had no side effects, while others had more than one. The total of 116 represents side effects recorded for subjects at any visit.

Smith et al. (Refs. 2, 3, and 4, Delbay 003) compared the antifungal and clinical effectiveness of 1-percent clotrimazole topical solution against its vehicle (polyethylene glycol 400) in a randomized, double-blind study in 169 subjects, of which 131 were eventually evaluated. Thirty eight subjects were excluded from the study for various reasons, with almost half of these lost to followup. Fungal infections were confirmed by KOH preparation and/or culture; 120 subjects had fungal infections (11 had candidiasis). Subjects applied the test solutions twice daily for 28 days (65 used the active and 66 used the vehicle). Effectiveness was determined on the basis of mycological findings, clinical findings (severity of signs and symptoms), and overall assessment of the treatment. Mycological conversion rates for subjects with tinea corporis/cruris were 96 percent (27/28) for the active and 34 percent (10/29) for the vehicle (P<0.001). The conversion rates for subjects with tinea pedis were 39 percent (12/31) for the active and 25 percent (8/32) for the vehicle. Weekly sign and symptom severity was evaluated on a scale of 1 (= none) to 4 (= severe). The weekly average for clotrimazole subjects declined from 3.25 at week 0 to 1.82 at week 4, while placebo declined from 3.14 to 2.52 for the same times (P=0.009). The authors stated that the treatment results clearly demonstrated the mycological and clinical effectiveness of the 1-percent clotrimazole solution and that the product was tolerated very well. The agency has some concerns about the usefulness of the clinical data as a scale of weekly averages of signs and symptoms. This information does not enable a determination to be made whether the subjects were actually clinically cured or just clinically improved. While the data lack sufficient clinical meaning for the agency to consider this a primary supportive study, the agency considers this study partially supportive of tinea corporis/cruris claims, but not tinea pedis claims. Tinea pedis claims are supported by other studies discussed in this document.

Smith and Knox (Refs. 2 and 3, Delbay 005) used the clotrimazole solution to continue to treat 22 subjects from the previous study who failed to respond mycologically to the vehicle solution in an open, mycologically controlled study with no control group. The drug was applied twice a day for 2 to 6 weeks depending on the clinical response. Eight subjects' fungal infections cleared completely both mycologically and clinically; 4 became negative mycologically and improved clinically, but did not heal completely; and 10 improved clinically but had residual positive mycology. None of the subjects reported any adverse events due to the drug. The agency finds that this study lacked sufficient details to be useful to support effectiveness.

Eaglestein et al. (Refs. 2, 3, and 4, Delbay 008) compared the antifungal and clinical effectiveness of 1-percent clotrimazole topical solution to its vehicle in a study of 124 subjects with tinea corporis/cruris using essentially the same design as the Smith et al. study (Delbay 003). Of these, 36 were not included in the final evaluation (14 were lost to followup and 22 were treated for a longer or shorter period than the 4 weeks stipulated in the protocol). Of the 88 subjects who met all of the criteria for evaluation of effectiveness, 29 had ringworm, 51 had jock itch, and 8 had both conditions; 42 of these subjects used the active and 46 used the vehicle. After 28 days of treatment, the mycological conversion rates were 88 percent (37 of 42) for the active and 28 percent (13 of 46) for the vehicle (P<0.001). The primary fungus detected was *T. rubrum*. The clinical investigators evaluated overall severity of clinical signs and symptoms (e.g., scaling, itching, inflammation) and indicated that 40 of 41 clotrimazole subjects improved clinically, compared to 24 of 45 vehicle subjects (P<0.001). One subject in each group could not be evaluated in this regard because a pretreatment severity was not specified. The clinical investigators' assessment of the treatment was that 34 of 42 clotrimazole subjects were healed clinically compared to 7 of 46 vehicle subjects (P<0.001). The authors stated that the results indicated that 1-percent clotrimazole solution is very effective for topical treatment of ringworm, especially on smooth and bare skin. The agency finds this study supportive of a ringworm claim.

Eaglestein et al. (Refs. 2, 3, and 4, Delbay 008) compared the anitfungal and clinical effectiveness of 1-percent clotrimazole topical solution to its vehicle in a study of 124 subjects with tinea corporis/crutis using essentially the same design as the Smith et al. study (Delbay 003). Eaglestein et al. (Ref. 2, Delbay 011 and 012) compared the antifungal and clinical effectiveness of 1-percent clotrimazole topical solution to its vehicle in subjects with two nonvesicular types of tinea pedis: (1) Plantar hyperkeratosis (moccasin), and (2) interdigital and/or instep, using the same design as the Smith et al. study (Delbay 003). The mycological conversion rates for subjects with plantar hyperkeratosis were 76 percent (28 of 37) for the clotrimazole group and 39 percent (16 of 41) for the vehicle group (P=0.001) and for subjects with interdigital and/or instep were 66 percent (23 of 35) for the drug group and 39 percent (13 of 33) for the vehicle group (P=0.026). Thirty of 37 (80 percent) drug treated subjects with plantar hyperkeratosis improved clinically compared to 24 of 41 (59 percent) vehicle subjects (P=0.027), while 22 of 34 (65 percent) drug treated subjects with interdigital and/or instep improved clinically compared to 20 of 33 (61 percent) vehicle subjects (not statistically significant). While the fungi most frequently detected in the subjects were *T. rubrum* and *T. mentagrophytes*, organisms for which the drug is indicated for OTC use, the OTC product labeling does not include claims for plantar hyperkeratosis or interdigital and/or instep tinea pedis. Thus, these studies provide support but do not establish effectiveness for OTC use.

Fredriksson (Ref. 9) compared the antifungal and clinical effectiveness of 1-percent clotrimazole topical solution to its vehicle in a randomized, double-blind, parallel study in 54 subjects. Half of the subjects had tinea infections: Tinea pedis (17), tinea cruris (8), tinea corporis (1), and tinea capitis (1). *T. rubrum* was the fungus most frequently detected. The 27 subjects applied test products (17 used clotrimazole and 10 used placebo) twice daily for 21 days, at which time the study was decoded. The 10 vehicle-treated failures were then crossed-over to an open study with clotrimazole treatment for another 21 days. After 3 weeks of applying the 1-percent clotrimazole solution, all 27 subjects (both the initial active group and crossover vehicle failures) with tinea infections were mycologically cured, and 19 of the 27 subjects (70 percent) had no clinical evidence of disease. The agency considers this study supportive of effectiveness.

The Advisory Review Panel on OTC Antimicrobial (II) Drug Products (the Panel) discussed two studies involving clotrimazole (Refs. 10 and 11) in its evaluation of haloprogin (47 FR 12480 at 12493 and 12494, March 23, 1982). One double-blind, clinical study (Ref. 10) compared the effectiveness of 1-percent clotrimazole solution with 1-percent haloprogin solution (the topical antifungal drug product monograph concentration in § 333.210(b)). Based on the results of the study, the authors concluded that clotrimazole was

significantly more effective than haloprogin for jock itch. The other double-blind, randomized study (Ref. 11) compared 1-percent clotrimazole cream and solution and 1-percent haloprogin ointment and solution in the treatment of subjects with athlete's foot and ringworm of the body. The author concluded that there were no marked differences in the antifungal effectiveness of clotrimazole and haloprogin.

D. Response to Comment

One comment (Ref. 12), submitted in response to the citizen petition (Ref. 1), opposed monograph status for clotrimazole. The comment contended that safety, effectiveness, and therapeutic effect will not be assured through the OTC drug monograph process because neither bioequivalence nor formulation changes will be monitored by the agency. The comment argued that topical antifungal drug products present interesting formulation and manufacturing issues and that the agency could assure safety, effectiveness, and interchangeability of clotrimazole products only through its application preapproval process. The comment noted the Panel's discussion about vehicles for OTC topical antifungal drug products (47 FR 12480 at 12489 and 12490). The Panel discussed types and effects of different vehicles, vehicle solubility and viscosity, and the rate of diffusion of an antifungal drug from a vehicle.

The agency disagrees with the comment. The agency does not consider the inclusion of clotrimazole in the topical antifungal drug products monograph at this time as any different than the previous inclusion of the former new drugs haloprogin and miconazole nitrate in the monograph. Bioequivalence testing is not required for either of those drugs currently marketed under the monograph. Based on the previous monograph determinations for haloprogin and micinazole nitrate and the marketing of clotrimazole OTC under NDA's since 1989, the agency considers all three of these ingredients to have an extensive history of safe and effective OTC use. While formulation and manufacturing issues for topical products may prevent FDA from allowing monograph status, the agency has no evidence at this time to indicate that formulation and manufacturing issues have affected the safety and effectiveness of clotrimazole.

The Panel's discussion about vehicles for these products was based on the Panel's general knowledge. Data on specific vehicles were not submitted to or reviewed by the Panel. No comments were received on the Panel's discussion about vehicles for these products, and this issue did not arise further in the rulemaking in determining which antifungal ingredients could be included in the final monograph. The agency monitors the quality of all products marketed under OTC drug monographs through its current good manufacturing practice regulations in 21 CFR part 211 and its inspection authority. If clotrimazole is marketed under the final monograph, the agency will monitor the quality of clotrimazole products in the same manner as other products currently marketed under the monograph.

E. Labeling

Since 1989, antifungal drug products containing clotrimazole 1 percent have been marketed OTC in the United States with indications for the treatment of athlete's foot (tinea pedis), jock itch (tinea cruris), and ringworm (tinea corporis). The warnings and directions in the approved applications for these products are very similar to those contained in § 333.250(c) and (d) of the final monograph for OTC antifungal drug products. If a manufacturer chooses to market its clotrimazole product that is currently marketed OTC under an approved application under the monograph in the future, it will have to modify the product's labeling to conform to the OTC drug monograph labeling in § 333.250. In either case, the manufacturer will need to follow the new OTC drug content and format labeling requirements in § 201.66 (21 CFR 201.66).

III. The Agency's Tentative Conclusions and Proposals

The agency has determined that clotrimazole has been marketed to a material extent and for a material time as a topical antifungal drug and, based on the available data, can be generally recognized as safe and effective for this use and included in the OTC drug monograph for this class of products. Therefore, the agency is proposing to add clotrimazole 1 percent as new paragraph (g) in § 333.210.

The agency is allowing interim marketing of OTC topical antifungal drug products containing 1-percent clotrimazole with claims for the treatment of athlete's foot (tinea pedis), jock itch (tinea cruris), and ringworm (tinea corporis) to begin with the publication of this proposal to amend the monograph based on the OTC marketing experience in the United States since 1989 and because there are no labeling issues to be addressed at this time. Such interim marketing is subject to the risk that the agency may adopt a different position in the final rule that could require relabeling, recall, or other regulatory action. Any product containing clotrimazole that is marketed under the monograph before a final rule is issued must use all of the labeling that is required by the final monograph (part 333, subpart C) and must follow the content and format requirements in § 201.66.

This proposal does not apply to clotrimazole marketed OTC as an antifungal agent in intravaginal drug products labeled for the treatment of vaginal yeast infections. The existing monograph for topical antifungal drug products does not contain any claims for intravaginal use.

IV. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Comment No. CP1, Docket No. 96P–0460, Dockets Management Branch.
2. Comment No. SUP1, Docket No. 96P–0460, Dockets Management Branch.
3. Comment No. LET3, Docket No. 96P–0460, Dockets Management Branch.
4. Comment No. LET4, Docket No. 96P–0460, Dockets Management Branch.
5. Comment No. LET5, Docket No. 96P–0460, Dockets Management Branch.
6. *The United States Pharmacopeia 24–The National Formulary 19*, The United States Pharmacopeial Convention, Inc., Rockville, MD, p. 451, 1999.
7. Duhm, B. et al., "Pharmacokinetics of Topically Applied Bisphenyl-(2-chlorophenyl) -1-imidazolyl-methane-[14C]," *Arzneittelforschung*, 22:1289–191, 1972, English version, *Drugs Made in Germany*, 15:126–132, 1972.
8. Clayton, Y. M. and B. L. Connor, "Comparison of Clotrimazole Cream, Whitfield's Ointment and Nystatin Ointment for the Topical Treatment of Ringworm Infections, Pityriasis Versicolor, Erythrasma, and Candidiasis," *British Journal of Dermatology*, 89:297–303, 1973.
9. Fredriksson, T., "Topical Treatment with Bay b 5097, A New Broad Spectrum Antimycotic Agent," *British Journal of Dermatology*, 86:628–630, 1972.
10. Van Dersarl, J. V. and R. H. Sheppard, "Clotrimazole vs. Haloprogin Treatment of Tinea Cruris," *Archives of Dermatology*, 113:1233–1235, 1977.
11. Weitgasser, H., "Clinical and Mycologic Trials with the Antifungal Medication Haloprogin," *Mykosen*, 20:15–24, 1977.
12. Comment No. C1, Docket No. 96P–0460, Dockets Management Branch.

V. Analysis of Impacts

FDA has examined the impacts of this proposed rule under Executive Order 12866, the Regulatory Flexibility Act (5

U.S.C. 601–612) (as amended by subtitle D of the Small Business and Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) (2 U.S.C. 1501 *et seq.*). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Under the Regulatory Flexibility Act, if a rule has a significant economic impact on a substantial number of small entities, an agency must analyze regulatory options that would minimize any significant impact of the rule on small entities. Section 202(a) of the Unfunded Mandates Reform Act requires that agencies prepare a written statement and economic analysis before proposing any rule that may result in an expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation).

The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order, as explained below, and so is not subject to review under the Executive Order.

The purpose of this proposed rule is to include clotrimazole 1 percent in the monograph for OTC topical antifungal drug products. This proposal allows current manufacturers of these products to market their products under the OTC drug monograph instead of an NDA and enables other manufacturers who wish to market clotrimazole products OTC to enter the marketplace without having to obtain an NDA. In both cases, there will be cost savings from marketing without an NDA.

If current manufacturers of these products choose to market them under the OTC drug monograph, they should incur only minor costs to relabel their products to meet the monograph. Some manufacturers may have to add a warning that was included in the final monograph, but not required when some products containing clotrimazole were approved for OTC marketing under an NDA. These manufacturers can make this change whenever they are ready to order new product labeling. Manufacturers have informed the agency that this type of relabeling cost generally averages about $2,000 to $3,000 per stock keeping unit (SKU) (individual products, packages, and sizes). Based on information in the agency's Drug Listing System, there are less than 10 manufacturers and distributors that together produce about 25 SKU's of OTC topical antifungal drug products that contain clotrimazole. Assuming that there are about 25 affected OTC SKU's in the marketplace, total one-time costs of relabeling would be $50,000 to $75,000 if the manufacturers of these products changed their marketing from under an approved application to under the OTC drug monograph. In making this change, these manufacturers would save money by eliminating all costs associated with maintaining an application. Likewise, other manufacturers who now wish to market topical clotrimazole drug products will be able to enter the marketplace without the costs associated with an application. Their costs would involve the standard start-up costs of any OTC drug marketed under the monograph.

The agency considered but rejected several alternatives: (1) Not including clotrimazole in the monograph, (2) a longer implementation period, and (3) no interim marketing. The agency rejected the first alternative because it considers the data presented supportive of monograph status. The agency does not see a need for the second or third alternatives because these clotrimazole drug products are already marketed OTC under approved applications and compendial standards currently exist for clotrimazole. The agency does not consider an exemption for small entities necessary because those manufacturers can enter the marketplace under the monograph at any time.

Under the Unfunded Mandates Reform Act, FDA is not required to prepare a statement of costs and benefits for this proposed rule because this proposed rule is not expected to result in any one-year expenditure that would exceed $100 million adjusted for inflation.

This analysis shows that the agency has considered the burden to small entities. Thus, this economic analysis, together with other relevant sections of this document, serves as the agency's initial regulatory flexibility analysis, as required under the Regulatory Flexibility Act.

VI. Paperwork Reduction Act of 1995

FDA tentatively concludes that the labeling requirements for clotrimazole are not subject to review by the Office of Management and Budget because they do not constitute a "collection of information" under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Rather, the existing monograph labeling is a "public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public" (5 CFR 1320.3(c)(2)).

VII. Environmental Impact

The agency has determined under 21 CFR 25.31(a) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Request for Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding the proposal by August 27, 2001. Written comments on the agency's economic impact determination may be submitted on or before August 27, 2001. Three copies of all comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

IX. Proposed Effective Date

The agency is proposing that any final rule that may issue based on this proposal become effective 30 days after its date of publication in the **Federal Register**.

List of Subjects in 21 CFR Part 333

Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 333 be amended as follows:

PART 333—TOPICAL ANTIMICROBIAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR part 333 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

2. Section 333.210 is amended by adding paragraph (g) to read as follows:

§ 333.210 Antifungal active ingredients.

* * * * *

(g) Clotrimazole 1 percent.

Dated: May 17, 2001.
Margaret M. Dotzel,
Associate Commissioner for Policy.
[FR Doc. 01–13299 Filed 5–25–01; 8:45 am]
BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 169—4116; FRL–6986–8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania on October 30, 2000 and April 4, 2001. This revision responds to the EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO_X SIP Call." This revision establishes and requires a nitrogen oxides (NO_X) allowance trading program for large electric generating and industrial units, beginning in 2003. The intended effect of this action is to propose approval the Pennsylvania NO_X Budget Trading Program because it addresses the requirements of the NO_X SIP Call Phase I that will significantly reduce ozone transport in the eastern United States. EPA is proposing to approve this revision in accordance with the requirements of the Clean Air Act.

DATES: Written comments must be received on or before June 28, 2001.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

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

SUPPLEMENTARY INFORMATION: On October 30, 2000 and April 4, 2001, the Pennsylvania Department of Environmental Protection (PADEP) submitted a revision to the Pennsylvania SIP to address the requirements of the NO_X SIP Call Phase I. The information in this section is organized as follows:

I. EPA's Action

A. What Action Is EPA Proposing Today?

EPA is proposing to approve the Pennsylvania SIP revision concerning the adoption of its NO_X Budget Trading Program, submitted on October 30, 2000 and April 4, 2001.

B. Why Is EPA Proposing This Action?

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

C. What Are the General NO_X SIP Call Requirements?

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

EPA determined state-wide NO_X emission budgets for each affected jurisdiction to be met by the year 2007. EPA identified NO_X emission reductions by source category that could be achieved by using cost-effective measures. The source categories included were electric generating units (EGUs), non-electric generating units (non-EGUs), area sources, nonroad mobile sources and highway sources. However, the NO_X SIP Call allowed states the flexibility to decide which source categories to regulate in order to meet the statewide budgets. In the NO_X SIP Call notice, EPA suggested that imposing statewide NO_X emissions caps on large fossil-fuel fired industrial boilers and electricity generating units would provide a highly cost effective means for States to meet their NO_X budgets. In fact, the state-specific budgets were set assuming an emission rate of 0.15 pounds NO_X per million British thermal units (lb. NO_X/mmBtu) at EGUs, multiplied by the projected heat input (mmBtu) from burning the quantity of fuel needed to meet the 2007 forecast for electricity demand. See 63 FR 57407. The calculation of the 2007 EGU emissions assumed that an emissions trading program would be part of an EGU control program. The NO_X SIP Call state budgets also assumed on average a 30% NO_X reduction from cement kilns, a 60% reduction from industrial boilers and combustion turbines, and a 90% reduction from internal combustion engines. The non-EGU control assumptions were applied at units where the heat input capacities were greater than 250 mmBtu per hour, or in cases where heat input data were

not available or appropriate, at units with actual emissions greater than one ton per day.

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

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

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

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

EPA's model NO_X budget and allowance trading rule, 40 CFR part 96, sets forth a NO_X emissions trading program for large EGUs and non-EGUs. A state can voluntarily choose to adopt EPA's model rule in order to allow sources within its borders to participate in regional allowance trading. The October 27, 1998 **Federal Register** document contains a full description of the EPA's model NO_X budget trading program. See 63 FR 57514–57538 and 40 CFR part 96. In general, air emissions trading uses market forces to reduce the overall cost of compliance for pollution sources, such as power plants, while maintaining emission reductions and environmental benefits. One type of market-based program is an emissions budget and allowance trading program, commonly referred to as a "cap and trade" program. In an emissions budget and allowance trading program, the state or EPA sets a regulatory limit, or emissions budget, in mass emissions from a specific group of sources. The budget limits the total number of allocated allowances during a particular control period. When the budget is set at a level lower than the current emissions, the effect is to reduce the total amount of emissions during the control period. After setting the budget, the state or EPA then assigns, or allocates, allowances to the participating entities up to the level of the budget. Each allowance authorizes the emission of a quantity of pollutant, e.g., one ton of airborne NO_X. At the end of the control period, each source must demonstrate that its actual emissions during the control period were less than or equal to the number of available allowances it holds. Sources that reduce their emissions below their allocated allowance level may sell their extra allowances. Sources that emit more than the amount of their allocated allowance level may buy allowances from the sources with extra reductions. In this way, the budget is met in the most cost-effective manner.

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

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

II. Pennsylvania's NO_X Budget Trading Program

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

On October 30, 2000 and April 4, 2001, PADEP submitted a revision to its SIP to address the requirements of the NO_X SIP Call Phase I. Pennsylvania's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants.

B. What Is the Pennsylvania NO_X Budget Trading Program?

Pennsylvania's NO_X Budget Trading Program affects electric generating units and certain non-electric generating units. The Sections of 25 PA Code Chapter 145—Interstate Pollution Transport Reduction which comprise Pennsylvania's SIP revision are as follows: Section 145.1 through 145.7, General Provisions; Section 145.10 through 145.14, NO_X Account; Section 145.30 through 145.31, Compliance Certification; Section 145.40 through 145.43, NO_X Allowance Allocations; Section 145.50 through 145.57, Accounting Process for Deposit Use and Transfer of Allowances; Section 145.60 through 145.62, NO_X Allowance Transfers; Section 145.70 through 145.76, Recordkeeping and Reporting Requirements; Section 145.80 through 145.88, Opt-In Process; Section 145.90, Emission Reduction Credit Provisions.

The Pennsylvania NO_X Budget Trading Program establishes and requires a NO_X allowance trading program for large electric generating and industrial units. It establishes a NO_X cap and allowance trading program with a budget of 50,843 tons of NO_X for the ozone seasons of 2003 and beyond. The NO_X budget for electric generating units and non-electric generating units is 47,224 and 3,619 tons of NO_X per ozone season, respectively. The Commonwealth of Pennsylvania voluntarily chose to follow EPA's model NO_X budget and allowance trading rule, 40 CFR part 96, that sets forth a NO_X emissions trading program for large EGUs and non-EGUs. Because the Pennsylvania NO_X Budget Trading Program is based upon EPA's model rule, Pennsylvania sources are allowed to participate in the interstate NO_X allowance trading program that EPA will administer for the participating states. The Commonwealth of Pennsylvania has adopted regulations that are substantively identical to 40 CFR part 96. Therefore, pursuant to 40 CFR 51.121(p)(1), Pennsylvania's SIP revision is automatically approved as satisfying the same portion of the State's NO_X emission reduction obligations Pennsylvania projects such regulations will satisfy. Under the NO_X Budget Trading Program, Pennsylvania allocates NO_X allowances to the EGUs and non-EGUs units that are affected by these requirements. The NO_X trading program applies to all fossil fuel fired EGUs with a nameplate capacity greater than 25 MW or more that sell any amount of electricity to the grid as well as any non-EGUs that have a heat input capacity equal to or greater than 250 mmBtu per hour. Each NO_X allowance permits a source to emit one ton of NO_X during the seasonal control period. NO_X allowances may be bought or sold. Unused NO_X allowances may also be banked for future use, with certain

limitations. Source owners will monitor their NO_X emissions by using systems that meet the requirements of 40 CFR part 75, subpart H, and report resulting data to EPA electronically. Each budget source complies with the program by demonstrating at the end of each control period that actual emissions do not exceed the amount of allowances held for that period. However, regardless of the number of allowances a source holds, it cannot emit at levels that would violate other federal or state limits, for example, reasonably available control technology (RACT), new source performance standards, or Title IV (the federal Acid Rain program).

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

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

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

III. Proposed Actions

A. NO_X SIP Call Requirements

EPA is proposing to approve the Pennsylvania SIP revision consisting of its NO_X Budget Trading Program, submitted on October 30, 2000 and April 4, 2001, because it satisfies the requirements of the NO_X SIP Call Phase I.

B. One-Hour Attainment Demonstration Plan

EPA is also proposing to approve the Pennsylvania SIP revision consisting of its NO_X Budget Trading Program, submitted on October 30, 2000 and April 4, 2001, as a SIP strengthening measure necessary for Pennsylvania's one-hour ozone attainment plan for the Philadelphia-Wilmington-Trenton severe ozone nonattainment area. As such, approval of this SIP revision is necessary for full approval of the attainment demonstration SIP for the Philadelphia-Wilmington-Trenton ozone nonattainment area.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This action proposing to approve the Pennsylvania NO_X Budget Trading Program does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

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

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

Dated: May 17, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 01–13414 Filed 5–25–01; 8:45 am]

BILLING CODE 6560–50–U

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–9 and 102–192

[FPMR Amendment A–]

RIN 3090–AH13

Mail Management

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) is revising Federal Property Management Regulations (FPMR) coverage on Federal mail management and moving it into the Federal Management Regulation (FMR). A cross-reference will be added to the FPMR to direct readers to the coverage in the FMR. The FMR is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

DATES: Your comments must reach us by July 30, 2001 to be considered in the formulation of a final rule.

ADDRESSES: Send written comments to: Michael E. Hopkins, Regulatory Secretariat (MVRS), Federal Acquisition Policy Division, General Services Administration, 1800 F Street, NW., Washington, DC 20405.

Send comments by e-mail to: *RIN.3090-AH13@gsa.gov.*

FOR FURTHER INFORMATION CONTACT: Henry Maury, Office of Transportation and Personal Property (MT), 202–208–7928 or *henry.maury@gsa.gov.*

SUPPLEMENTARY INFORMATION

A. Background

The purposes of this proposed rule are to update, streamline, and clarify FPMR part 101–9, Federal Mail Management, and move that part into the Federal Management Regulation (FMR). The proposed rule is written in a plain language, question and answer format. This style uses the active voice, shorter sentences, and pronouns. A question and its answer combine to establish a rule; that is, Federal agencies and Federal employees must follow the language contained in both the question and its answer.

Section 2 of Public Law 94–575, the Federal Records Management Amendments of 1976, as amended, directs the Administrator of General Services to provide guidance and assistance to Federal agencies on records management, including the processing of mail by Federal agencies, and this proposed rule implements that direction. In doing so, this proposed rule establishes three new requirements:

(1) GSA's research shows that Federal agencies use mail more efficiently and effectively when the financial resources and costs for mail are identified, managed, and reported at the user level, so this proposed rule requires that Federal agencies move in that direction. No later than October 1, 2002, all Federal agencies are required to have restructured their financial systems in this fashion. GSA urges agencies to include their Chief Financial Officers and Chief Information Officers in reviewing this proposed rule because of this new requirement.

(2) The existing regulation, FPMR part 101–9, requires Federal agencies to collect and maintain data on mail volumes and postage expenditures. This proposed rule requires all agencies that spend more than $1 million per year on postage to collect data on postage expenditures and report data to GSA. As a step towards this requirement, this proposed rule requires all such agencies to tell GSA what mail data they currently collect via a report due 30 days after this is published as a final rule.

(3) FPMR part 101–9 requires Federal agencies to develop and maintain mail security plans, and it encourages Federal agencies to submit narratives on their cost savings to GSA. This proposed rule requires all agencies that spend over $1 million per year on postage to prepare mail management plans and submit them annually to GSA. These mail management plans are intended to address traditional issues such as security, processing efficiencies, and use of available postage discounts. These plans are also intended to help agencies strengthen accountability for mail management and clarify the relationships between the effectiveness of their mail management programs and the accomplishment of their programmatic missions.

Questions

To assist GSA in putting this proposed rule into final form, please respond to the following questions in your comments on this proposed rule:

(a) *How would you express the relationships between the effectiveness of your mail management program and accomplishing your agency's programmatic mission? Please provide examples of any relevant performance measures currently used by your agency.*

(b) *What are the best ways to make agency program and financial managers aware of these relationships?*

(c) *Are there other stakeholders within or outside of your agency who might care about these relationships?*

(d) *What is the best way to manage your mail so that mission program managers have incentives to use the most effective and least expensive communication methods, be they electronic or paper-based?*

(e) *This proposal requires that users with significant mail volumes pay the costs of mailing. How should agency mail billing systems be implemented in order to be cost effective?*

B. Executive Order 12866

GSA has determined that this proposed rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this proposed rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This proposed rule is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 101–9 and 102–192

Electronic mail, Federal mail management, Financial accountability, Mail security, Performance measurement.

For the reasons set forth in the preamble, 41 CFR chapters 101 and 102 are amended as follows:

CHAPTER 101—[AMENDED]

1. Part 101–9 is revised to read as follows:

PART 101–9—FEDERAL MAIL MANAGEMENT

Authority: 40 U.S.C. 486(c); sec. 2, Pub. L. 94–575, as amended, 44 U.S.C. 2904; sec. 205(c), 63 Stat. 390.

§ 101–9.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For Federal mail management information previously contained in this part, see FMR part 192 (41 CFR part 102–192).

CHAPTER 102—[AMENDED]

2. Part 102–192 is added to subchapter G to read as follows:

PART 102–192—MAIL MANAGEMENT

Authority: 40 U.S.C. 486(c); Sec. 2, Pub. L. 94–575, as amended, 44 U.S.C. 2904; Sec. 205(c), 63 Stat. 390.

Subpart A—General Provisions

§ 102–192.5 What does this part cover?

This part prescribes policy and requirements for the efficient, effective, and economical management of incoming, internal, and outgoing mail in Federal agencies.

§ 102–192.10 What authority governs this part?

Section 2 of Public Law 94–575, the Federal Records Management Amendments of 1976 (44 U.S.C. 2904), as amended, requires the Administrator of General Services to provide guidance and assistance to Federal agencies on records management, and 44 U.S.C. 2901 defines the processing of mail by Federal agencies as a records management activity.

§ 102–192.15 How are "I", "you", "me", "we", and "us" used in this part?

"I", "me", and "you" (in its singular sense) refer to agency mail managers and/or facility mail managers; the context makes it clear which usage is intended in each case. "We", "us", and "you" (in its plural sense) refer to your Federal agency.

§ 102–192.20 How are "must" and "should" used in this part?

In this part:

(a) "Must" identifies steps that Federal agencies are required to take; and

(b) "Should" identifies steps that GSA strongly recommends because GSA's research has identified these steps as known best practices in mail management.

§ 102–192.25 Does this part apply to me?

Yes, this part applies to you if you work in a Federal agency, as defined in § 102–192.35.

§ 102–192.30 What types of mail does this part apply to?

This part applies to:

(a) All materials that might pass through a Federal mail processing center, including:

(1) All internal, incoming, and outgoing materials such as envelopes, bulk mail, expedited mail, individual packages up to 70 pounds, publications, and postal cards, regardless of whether or not they currently pass through a particular mail center; and

(2) Similar materials carried by agency personnel, contractors, the United States Postal Service (USPS), and all other carriers of such items; and

(b) Electronic mail only if it is printed out and mailed as described in the two previous sentences of this paragraph; however, this part encourages agencies to maximize use of electronic mail in lieu of printed media, so long as it is cost-effective.

§ 102–192.35 What definitions apply to this part?

The following definitions apply to this part:

Agency mail manager means the person who manages the overall mail communications program of the agency and represents the agency in its relations with mail service providers, other agency mail managers, and the GSA Office of Governmentwide Policy. See subpart D of this part for additional information about the responsibilities of the agency mail manager.

Class of mail means the following classes of domestic mail as defined by the United States Postal Service in the Domestic Mail Manual, (C100 through C600.1.z):

(1) First Class
(2) Standard Mail (e.g., bulk marketing mail)
(3) Package Services
(4) Express Mail
(5) Periodicals

Note to the definition of Class of mail: The Domestic Mail Manual is available from: New Orders, Superintendent of Documents U.S. Government Printing Office, PO Box 371954, Pittsburgh, PA 15250–7954, http://pe.usps.gov/

Commingling means the merging of outgoing mail from one facility or agency with outgoing mail from another.

Expedited mail is a generic term that describes mail designated for delivery more quickly than the USPS's normal delivery times (which vary by class of mail). Examples of expedited mail

include USPS Express Mail and overnight and two-day delivery by other service providers.

Facility mail manager means the person responsible for mail in a specific Federal facility. There may be many facility mail managers within a Federal agency. See subpart E of this part for additional information about facility mail managers.

Federal facility or facility means any office building, installation, base, etc., where Federal agency employees work. "Facility" also includes any component of an agency that is generating more than $250,000 in outgoing mail expenses through contracts with printers or distributors.

Federal agency or agency means:

(1) Any executive department as defined in 5 U.S.C. 101;

(2) Any wholly owned Government corporation as defined in 31 U.S.C. 9101;

(3) Any independent establishment in the executive branch as defined in 5 U.S.C. 104; and

(4) Any establishment in the legislative branch, except the Senate, the House of Representatives, the Architect of the Capitol, and all activities under the direction of the Architect of the Capitol (44 U.S.C. 2901(14)).

Incoming mail means any mail that comes into the agency delivered by any service provider, such as the USPS, UPS, FedEx, or DHL.

Internal mail means mail generated within a Federal facility that is delivered within that facility or to a nearby facility of the same agency, so long as it is delivered by agency personnel or a dedicated agency contractor (*i.e.*, not a service provider).

Mail means the types of mail described in § 102–192.30.

Mail piece design means laying out and printing items to be mailed such that they can be processed efficiently and effectively by automated mail processing equipment.

Outgoing mail means mail generated within a Federal facility that is going outside that facility and is delivered by a service provider.

Postage means money due or paid to any service provider.

Service provider means any agency or company that delivers mail. Some examples of service providers are USPS, UPS, FedEx, DHL, courier services, the Military Postal Service Agency, and other Federal agencies providing services.

Special services means those services paid by fees added to basic postage; *e.g.*, certified mail, business reply mail, registered mail, insurance, merchandise return service, certificates of mailing, return receipts, and delivery confirmation.

Unauthorized use of agency postage means the use of penalty or commercial mail stamps, meter impressions, or other postage indicia for personal use or any other purpose that is not necessary for official business.

Worksharing means cost-effective ways of processing outgoing mail that qualify it for reduced postage rates; examples include presorting, bar coding, consolidating, and commingling.

§ 102–192.40 How do we request a deviation from these requirements, and who can approve it?

See § § 102–2.60 through 102–2.110 of this chapter to request a deviation from the requirements of this part.

Subpart B—Financial Accountability Requirement

§ 102–192.45 Is there a particular way that agencies must account for mail expenses?

Yes, no later than October 1, 2002, all Federal agencies, as defined in § 102–192.35, must ensure that costs incurred for mail are identified, managed, and reported at the user level. That is:

(a) Agency financial systems must show allocations and expenses for postage and all other mail costs (*e.g.*, payments to service providers, mail center personnel costs, mail center overhead, etc.) separate from all other administrative expenses;

(b) To the maximum practical extent, the person who makes the decision to mail any significant number of pieces of mail should be the same person who controls the funds for postage;

(c) Mail centers must establish systems to charge their customers for postage; and

(d) Mail costs that are part of printing contracts should be identified and separated from the printing cost in each contract and charged back separately to the organization that initiated the printing and mailing requirement.

§ 102–192.50 What is the purpose of this financial accountability requirement for mail?

This financial accountability requirement will make it possible for managers at all levels to see how much they are spending for mail. Once they can see how much they are spending, they should take a more active role in managing these costs.

Subpart C—Measurement and Reporting Requirements

§ 102–192.55 What aspects of mail must we measure for the entire agency?

You must separately track the total amount of money that your agency pays to each service provider for mail. This includes money paid to the USPS through the Official Mail Accounting System or through commercial payment mechanisms.

§ 102–192.60 What aspects of mail must we measure at the facility level?

If your facility's total annual payments to all service providers exceed $250,000, you must separately track the total amount of money that your facility pays to each service provider for mail. This includes money paid to the USPS through the Official Mail Accounting System or through commercial payment mechanisms.

§ 102–192.65 What additional aspects of mail should we measure?

(a) Efficient and effective management of mail requires collection of performance data and establishment of performance goals. Sections 102–192.55 and 102–192.60 identify money paid to vendors as the only data that you are required to collect. However, cost is only one aspect of mail management; you are, therefore, strongly encouraged to establish a wider range of performance data collection and performance goals for mail, including goals that connect mail management to performance of your agency's mission.

(b) A relatively small number of facilities generates most of the incoming and outgoing mail in most government or private organizations. You should know which facilities generate most of your mail, and you should focus your performance measurement programs on those facilities.

(c) The range of measures will depend on the size of your agency or facility, your mission, and the life cycle cost of data collection. Examples of data that you might collect include:

(1) Savings from worksharing;

(2) Pieces of mail handled per mail center FTE;

(3) Cost per piece by class of mail, with first class broken down into letters and flats;

(4) Ratio of express mail expense to total postage;

(5) Savings obtained through worksharing;

(6) Spoiled postage (i.e., stamps or metered envelopes so damaged that they cannot be used);

(7) Percent of outgoing mail transferred from the mail center to a

service provider on the same day that it is received by the mail center from internal customers;

(8) Percent of internal mail delivered on time, according to agency delivery standards;

(9) Percent of incoming mail sorted incorrectly;

(10) Cost and percentage of returned mail;

(11) Ratio of production staff to administrative staff;

(12) Customer satisfaction;

(13) Employee satisfaction;

(14) Workplace safety (e.g., number of accidents per work year, work hours lost due to accidents, etc.); and

(15) Annual hours of training per mail center FTE.

§ 102–192.70 Which agencies must report mail data to GSA?

Every Federal agency whose total annual payments to all service providers exceed $1,000,000 must report the data specified in § 102–192.75 to GSA.

§ 102–192.75 What must we report to GSA about our mail operations?

(a) If you meet the requirement in § 102–192.70, you must report to GSA the data described in § 102–192.55, broken down by service provider. You must also provide a copy of your agency's annual mail management plan, and the name, address, telephone number, and e-mail address (if any) of the agency mail manager. In addition, you must report any data described in § 102–192.65 that you collect on an agency-wide basis.

(b) Once only, 30 days after the effective date of this rule, you must provide GSA with a concise statement that describes the performance data that you currently collect at the agency and facility levels.

§ 102–192.80 How often must we report to GSA about our mail operations?

If you meet the requirement in § 102–192.70, you must report to GSA annually. The name of the agency mail manager must be reported whenever it changes. Note that GSA maintains an updated list of Federal agency mail managers at: *http://policyworks.gov/org/main/mt/homepage/mail/april/federal_agency_mail_managers.htm*

§ 102–192.85 When must we submit reports to GSA about mail?

If you meet the requirement in § 102–192.70, the first annual report to GSA is due on January 15, 2002, covering Fiscal Year 2001. Fiscal year reports will be due annually on January 15 thereafter.

§ 102–192.90 What format should we use when reporting mail data to GSA?

GSA will provide the format and reporting process for submitting data and mail management plans. These will be developed in collaboration with the Interagency Mail Policy Council. See § § 102–192.130 through 102–192.140 for additional information on mail management plans.

§ 102–192.95 To whom must we submit our reports about mail?

If you meet the requirement in § 102–192.70, submit your mail reports to:

(a) General Services Administration, Office of Governmentwide Policy, Mail Communications Policy Division (MTM), Washington, DC 20405; and

(b) Your agency's Chief Financial Officer, your agency's Chief Administrative Officer, your agency's Chief Information Officer, or their designees.

§ 102–192.100 Why does GSA require these reports about mail?

GSA requires these reports about mail to:

(a) Ensure that Federal agencies have performance measures and goals for their mail communications programs; and

(b) Give GSA data to track Governmentwide trends in mail communications so that it can fulfill its responsibilities under the Federal Records Act.

Subpart D—Agency Mail Manager Responsibilities

§ 102–192.105 Which Federal agencies must designate an agency mail manager?

Every Federal agency whose total annual payments to all service providers exceed $1,000,000 must designate an agency mail manager.

§ 102–192.110 What is the appropriate managerial level for an agency mail manager?

The agency mail manager should be at a managerial level that enables him or her to fulfill the requirements of this part; *i.e.*, to:

(a) Prepare and submit agency-wide reports to GSA;

(b) Ensure that the agency has an effective internal system for tracking postage costs; and

(c) Develop and implement agencywide policies, procedures, performance data collection, and agencywide mail management plans.

§ 102–192.115 What are my general responsibilities as an agency mail manager?

As an agency mail manager, you should:

(a) Establish written policies and procedures to provide timely and cost effective dispatch and delivery of mail;

(b) Ensure agency-wide awareness and compliance with standards and operational procedures established by all service providers used by the agency;

(c) Monitor the agency's mailings and other mail management activities, especially expedited mail, mass mailings, mailing lists, and couriers, and seek opportunities to implement cost-effective improvements and/or to enhance performance of the agency's mission;

(d) Develop and direct agency programs and plans for proper and cost-effective use of transportation, equipment, and supplies used for mail;

(e) Develop and implement the agency's annual mail management plan;

(f) Ensure that facility mail managers receive the training they need to perform their assigned duties.

(g) Develop and provide the reports required by this part to GSA; and

(h) Establish written policies and procedures to minimize personal mail in incoming, outgoing, and internal agency mail.

Note to § 102–192.115(h): An agency may decide to accept and process personal mail for personnel living on a Federal facility, personnel stationed outside the United States, or personnel in other situations who would otherwise suffer hardship.

§ 102–192.120 What are my financial responsibilities as an agency mail manager?

As an agency mail manager you should:

(a) Establish and maintain a system that tracks the financial and other performance data discussed in § 102–192.55 and § 102–192.60;

(b) Work with agency executives to ensure that, to the maximum practical extent, the person who makes the decision to mail any significant number of pieces of mail is the same person who controls the funds for postage;

(c) Work with agency accounting personnel to ensure that financial systems show allocations and expenses for postage and all other mail costs separately from all other administrative expenses; and

(d) Ensure that bills from all service providers are reconciled and paid on a timely basis.

§ 102–192.125 Must we have an annual agency-wide mail management plan?

Yes, you must develop and implement an annual agency-wide mail management plan if your total annual payments to all service providers exceed $1,000,000.

§ 102–192.130 What should we include in our annual agency-wide mail management plan for mail?

Your agency-wide mail management plan should address:

(a) The ways in which mail management supports accomplishment of your agency's mission;

(b) Identifying the facilities within your agency that generate large volumes of mail;

(c) Identifying opportunities for reducing costs and/or enhancing your agency's ability to perform its mission through better mail management;

(d) Choosing the lowest cost and/or best value service provider(s) for outgoing mail, while ensuring that the Private Express Statutes and all USPS regulations are followed;

(e) Maximizing worksharing;

(f) Maximizing automated mail communications procedures, including automated addressing, mail list management, electronic mail, and use of the Internet;

(g) Maximizing centralized mail processing, consolidation, and commingling to obtain postage discounts;

(h) Developing and maintaining procedures and instructions for the cost-effective use of expedited mail, mass mailings, couriers, and mail piece design;

(i) Ensuring that, to the maximum practical extent, the person who makes the decision to mail any significant number of pieces of mail is the same person who controls the funds for postage;

(j) Ensuring that financial systems show allocations and expenses for postage and all other mail costs separately from all other administrative expenses;

(k) Ensuring that your agency's mail centers are secure; and

(l) Developing and maintaining performance data systems and specific performance goals, and relating mail management goals to your agency's mission-related goals.

§ 102–192.135 What less costly alternatives to expedited mail and couriers should our agency-wide mail management plan address?

Your plan should address the following alternatives to expedited mail and couriers:

(a) First Class and Priority Mail from the USPS;

(b) Package delivery services from other service providers; and

(c) Electronic transmission via e-mail, facsimile transmission, electronic commerce, the Internet, etc.

§ 102–192.140 What security issues should our agency-wide mail management plan address?

Your plan should:

(a) Address how your facilities will meet the standards established by the Interagency Security Committee that was established in accordance with Executive Order 12977, dated October 19, 1995 (3 CFR part 413);

(b) Address training facility mail managers in security procedures, how all incoming mail will be handled regardless of carrier, and which mail facilities should x-ray all incoming mail; and

(c) Ensure that facility mail managers participate in their building security committees, wherever such committees exist.

Subpart E—Facility Mail Manager Responsibilities

§ 102–192.145 What are my general responsibilities as a facility mail manager?

As a Federal facility mail manager you should:

(a) Implement policies and procedures developed by the agency mail manager, including cost control procedures;

(b) Work to improve, streamline, and reduce the cost of mail practices and procedures by continually reviewing work processes throughout the facility and seeking opportunities for cost-effective change;

(c) Work closely with all facility personnel, especially those involved in developing large mailings, to minimize postage and associated printing expenses through improved mail piece design, mail list management, electronic transmission of data in lieu of mail, and other appropriate measures;

(d) Work with local managers to ensure that, to the maximum practical extent, the person who makes the decision to mail any significant number of pieces of mail is the same person who controls the funds for postage;

(e) Ensure that expedited mail and couriers are used only when authorized by the Private Express Statutes (39 U.S.C. 601–606) and when necessary and cost-effective;

(f) Provide centralized control of all mail processing activities at the facility, including all regularly scheduled, small package, and expedited service providers, couriers, equipment and personnel;

(g) Review unauthorized use, loss, or theft of postage, including any unauthorized use of penalty or commercial mail stamps, meter impressions or other postage indicia, and immediately report such incidents to the agency Inspector General, internal security office, or other appropriate authority;

(h) Provide training opportunities for all levels of agency personnel at the facility on cost-effective mailing practices for incoming, outgoing, and internal mail; and

(i) Ensure that outgoing mail meets all the standards established by your service provider(s) for weight, size, hazardous materials content, etc.

§ 102–192.150 Must I have a facility mail security plan?

If your facility's total annual payments to all service providers exceed $250,000, you must develop and implement a facility mail security plan, and it should be updated whenever circumstances warrant.

§ 102–192.155 What should I include in the facility mail security plan?

Your facility security plan should:

(a) Address how your facility will meet the standards established by the Interagency Security Committee that was established in accordance with Executive Order 12977, dated October 19, 1995 (3 CFR part 413); and

(b) Discuss, at a minimum:

(1) Policies and procedures for safe and secure facility operations consistent with your agency's core mission and agency mail security plan;

(2) Security training for facility personnel;

(3) Safe transportation of mail; and

(4) X-raying of mail where appropriate.

§ 102–192.160 What should I include when contracting out all or part of the mail function?

Any contract for a mail function should require compliance with:

(a) This part;

(b) The Private Express Statutes (39 U.S.C. 601–606); and

(c) All agency policies, procedures, and plans, including the agencywide mail management plan.

Subpart F—GSA Responsibilities and Services

§ 102–192.165 What are GSA's responsibilities in mail management?

Under the Federal Records Management Amendments of 1976, as amended (44 U.S.C 2904), GSA is required to provide guidance and assistance to Federal agencies to ensure economical and effective records management by such agencies (mail is one type of record, according to the Act). In carrying out its responsibilities under the Act, GSA is required to:

(a) Promulgate standards, procedures, and guidelines;

(b) Conduct research to improve practices and programs;

(c) Collect and disseminate information on training programs, technological developments, etc.;

(d) Establish an interagency committee (i.e., the Interagency Mail Policy Council) to provide an exchange of information among Federal agencies;

(e) Conduct studies, inspections, or surveys; and

(f) Promote economy and efficiency in the selection and utilization of space, staff, equipment, and supplies.

§ 102–192.170 What types of support does GSA offer to Federal agency mail management programs?

GSA will support Federal agency mail management programs by:

(a) Assisting development of agency policy and guidance in mail management and mail operations;

(b) Identifying better business practices and sharing them with Federal agencies;

(c) Developing and providing access to a Governmentwide management information system for mail;

(d) Helping agencies develop performance measures and management information systems for mail;

(e) Maintaining a current list of Agency Mail Managers; and

(f) Maintaining liaisons with the USPS and other service providers at the national level.

§ 102–192.175 What types of support does GSA offer to Federal mail managers?

The GSA Office of Governmentwide Policy maintains a website for mail communications policy. You may also contact GSA at: General Services Administration, Office of Governmentwide Policy, Mail Communications Policy Division (MTM), Washington DC 20405; or at: (e-mail address to be inserted later).

Dated: May 9, 2001.

G. Martin Wagner,

Associate Administrator for Governmentwide Policy.

[FR Doc. 01–13282 Filed 5–25–01; 8:45 am]

BILLING CODE 6820–24–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 15

RIN 1018–AG64

Wild Bird Conservation Act; Review of Approved List of Captive-bred Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a review of all approved captive-bred species listed in the Approved List of Captive-bred Species as provided for in the Wild Bird Conservation Act (WBCA) of 1992. The WBCA requires periodic review of the list. The purpose of the review is to ensure that the list accurately reflects the most current status information for each listed species. We request comments that will provide us with the most current scientific and trade information available on these listed species as well as similar information on species that may warrant consideration for inclusion in the list. If inclusion of a species in the list is not consistent with the best scientific and trade information available at the conclusion of this review, we will change the list accordingly.

DATES: Your comments on this notice of review must be received by July 30, 2001 to receive consideration by us.

ADDRESSES: Submit comments, information, and questions to the Chief, Division of Scientific Authority; Mail Stop: Room 750, Arlington Square; U.S. Fish and Wildlife Service; Washington, DC 20240 (Fax number: 703–358–2276; E-mail address: fw9ia_dsa@fws.gov). Address express and messenger-delivered mail to the Division of Scientific Authority; 4401 North Fairfax Drive, Room 750; Arlington, Virginia 22203. Comments and materials received will be available for public inspection by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia, address.

FOR FURTHER INFORMATION CONTACT: Michael D. Kreger, Biologist, Division of Scientific Authority (See **ADDRESSES** section) (phone: 703–358–1708, fax: 703–358–2276, E-mail: fw9ia_dsa@fws.gov).

SUPPLEMENTARY INFORMATION:

Background

The Wild Bird Conservation Act (WBCA) was enacted on October 23, 1992 to promote the conservation of exotic birds listed in the appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) by ensuring that all imports of exotic bird species into the United States are biologically sustainable and not detrimental to the species; ensuring that imported birds are not subject to inhumane treatment during capture and transport; and assisting wild bird conservation and management programs in countries of origin.

What Is the Approved List of Captive-Bred Species?

The Approved List of Captive-bred Species under the WBCA is a list of bird species that are included in the appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and which exist in international trade only as captive-bred specimens. The listing criteria are described in 50 CFR 15.31–15.32 and the list is presented in 50 CFR 15.33. A WBCA permit is not required if an exotic bird species is listed in the Approved List of Captive-bred Species. We periodically review and update the list. To be included in the list, a species must meet the following criteria:

(a) All specimens of the species known to be in trade (legal or illegal) must be captive bred;

(b) No specimens of the species may be removed from the wild for commercial purposes;

(c) Any importation of the species must not be detrimental to the survival of the species in the wild; and

(d) Adequate enforcement controls must be in place to ensure compliance.

Where Can the Approved List of Captive-Bred Species Be Found?

The Approved Species List of Captive-bred Species can be found in 50 CFR 15.33. The list is also available on the World Wide Web at http://international.fws.gov/global/wbcaacbs.html. This list contains the names of species of captive-bred exotic birds for which importation into the United States is not prohibited by the WBCA.

Why Is This Review Being Conducted?

The procedural rules for listing or removing species from the list can be found in 50 CFR 15.31. The WBCA requires that the Secretary of the Interior conduct a periodic review of each listed species and, after public comment, publish in the **Federal Register** a list of species of exotic birds that are listed in any CITES Appendix and that are not subject to a prohibition or suspension of importation by the WBCA based on their captive-bred status. The last review was conducted in 1994.

Which Species Are Included on the List?

Although the WBCA also contains provisions for an approved list of wild-caught birds harvested under approved sustainable-use management plans, and also allows imports from qualifying overseas breeding facilities, those lists

have not yet been established. The Approved List of Captive-bred Species currently contains the following species that are subject to this review, although other species may be added if information is received to show that they qualify:

Order Falconiiformes:
Buteo buteo—European buzzard
Order Columbiformes:
Columba livia—Rock dove
Order Psittaciformes:
Agapornis personata—Masked lovebird
Agapornis roseicollis—Peach-faced lovebird
Aratinga jandaya—Jendaya conure
Barnardius barnardi—Mallee ringneck parrot
Bolborhynchus lineola—Lineolated parakeet-blue form
Bolborhynchus lineola—Lineolated parakeet-yellow form
Bolborhynchus lineola—Lineolated parakeet-white form
Cyanoramphus auriceps—Yellow-fronted parakeet
Cyanoramphus novaezelandiae—Red-fronted parakeet
Forpus coelestis—Pacific parrotlet-lutino form
Forpus coelestis—Pacific parrotlet-yellow form
Forpus coelestis—Pacific parrotlet-blue form
Forpus coelestis—Pacific parrotlet-cinnamon form
Melopsittacus undulatus—Budgerigar
Neophema bourkii—Bourke's parrot
Neophema chrysostoma—Blue-winged parrot
Neophema elegans—Elegant parrot
*Neophema pulchella**—Turquoise parrot
*Neophema splendida**—Scarlet-chested parrot
Nymphicus hollandicus—Cockatiel
Platycercus adelaide—Adelaide rosella
Platycercus adscitus—Pale-headed rosella
Platycercus elegans—Crimson rosella
Platycercus eximius—Eastern rosella
Platycercus icterotis—Western (stanley) rosella
Platycercus venustus—Northern rosella
Polytelis alexandrae—Princess parrot
Polytelis anthopeplus—Regent parrot
Polytelis swainsonii—Superb parrot
*Psephotus chrysopterygius**—Golden-shouldered parakeet
Psephotus haematonotus—Red-rumped parakeet
Psephotus varius—Mulga parakeet
Psittacula eupatria—Alexandrine parakeet-blue form
Psittacula eupatria—Alexandrine parakeet-lutino form
Psittacula krameri manillensis—Indian ringneck parakeet
Purpureicephalus spurius—Red-capped parrot
Trichoglossus chlorolepidotus—Scaly-breasted lorikeet
Order Passeriformes:
Aegintha temporalis—Red-browed finch
Aidemosyne modesta—Cherry finch
Chloebia gouldiae—Gouldian finch
Emblema guttata—Diamond sparrow
Emblema picta—Painted finch
Lonchura castaneothorax—Chestnut-breasted finch
Lonchura domestica—Society (Bengalese) finch
Lonchura pectoralis—Pictorella finch
Neochmia ruficauda—Star finch
Poephila acuticauda—Long-tailed grassfinch
Poephila bichenovii—Double-barred finch
Poephila cincta—Parson finch
Poephila guttata—Zebra finch
Poephila personata—Masked finch
Serinus canaria—Common canary

Note: Species with an asterisk (*) are protected by the Endangered Species Act and require a permit under that law for importation. The golden-shouldered parakeet is also listed in CITES Appendix I and is subject to the provisions of CITES, including a determination of whether import is for primarily commercial purposes.

Forty-eight species are currently included in the list. Most species are Psittaciformes, which includes parrots, macaws, budgerigars, parakeets, lovebirds, cockatoos, and similar species. Of those, color mutations, such as the blue form of the Pacific parrotlet, are included since it is likely that these are captive-bred birds and would not have been removed from the wild. The list was established on January 24, 1996 (61 FR 2093) and has not been amended since then. Since the list was established, however, certain factors (e.g., changes in national legislation in range countries) may have altered patterns in the exotic bird trade, and captive breeding of some species may have improved or declined. We have received comments from aviculturists requesting that some captive-bred species, including additional color mutations, be added to the list, especially if the range country now strictly prohibits exportation of the species. We intend to examine these comments and any additional information in response to this Notice to determine the current status of species listed, to determine whether they should remain on the list, and to determine whether additional species should also be included in the list.

How Will We Determine Whether a Species Should Be on the Approved List?

We will consider the comments received in response to this Notice, as well as other relevant information given to us on captive breeding and trade in exotic birds. We will then evaluate the species against the criteria listed above. A species will be added to the list if it meets all of the criteria.

What Could Happen as a Result of This Review?

If anyone provides us with substantial new information for one or more species in the table above, or if we find, as part of our review, any other credible new information on these species, we could either remove or add a species to the list.

What Will Happen if no New Information Is Submitted on any of the Listed Species?

No changes will be made to the list as a result of this review unless substantial information is received. However, we will initiate periodic reviews in the future, as resources allow and when new information suggests that a review may be warranted.

Request for Information

We request comments on this Notice of Review from any foreign government or agency, the public, other Federal, State, and local governmental agencies, the scientific community, industry, or any other interested party. The comments should provide as much scientific and trade information as possible (literature citations, etc.). Submissions with detailed information are much more helpful than those that merely advocate or state a position, but that contain no biological or trade information that would contribute to determining whether species should be included in the list. In particular, we are seeking information that indicates a need for a change in the status of any of the listed or unlisted species based on:

1. Status of captive breeding;
2. Whether there is legal trade from the wild;
3. Whether there is illegal trade from the wild and how much.

We are also seeking taxonomic and nomenclatural changes as well as of occurrences of any new color mutations of the taxa as well as suggestions for appropriate common names.

If possible, this information should be supported by documentation such as maps, breeding records, bibliographic references, or copies of any pertinent

publications, reports, or letters by knowledgeable sources.

What if We Receive Extensive Substantive Information on a Large Number of Species?

We will evaluate information received and information in our files and determine: (1) whether or not any currently listed species should be re-evaluated; and (2) whether or not the listing of any currently unlisted species should be considered. Due to limited resources available for this effort, our highest priority will be for those species whose conservation status in the wild would most benefit from a change in their listing status under the WBCA.

Authority: This document is published under the authority of the Wild Bird Conservation Act (16 U.S.C. 4901–4916 *et seq.*).

Dated: May 15, 2001.

Marshall P. Jones, Jr.,

Acting Director.

[FR Doc. 01–13348 Filed 5–25–01; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[ID. 051601B]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Application for an Exempted Fishing Permit

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

ACTION: Notice of receipt of an application for an exempted fishing permit (EFP); request for comments.

SUMMARY: NMFS announces receipt of an application for an EFP from the Washington State Department of Fish and Wildlife (WSDFW). If awarded, the EFP would allow vessels with valid Washington State delivery permits to land certain federally managed groundfish species in excess of cumulative trip limits and sell them for profit, providing the vessel carries a State- sponsored observer. State observers would collect total catch and effort data, and retain specimens that are otherwise not available shoreside. This EFP proposal is intended to promote the objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP) by providing data on total catch and incidental catch rates.

DATES: Comments must be received by June 28, 2001.

ADDRESSES: Copies of the EFP application are available from Becky Renko, Northwest Region, NMFS, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070.

FOR FURTHER INFORMATION CONTACT: Becky Renko, 206–526–6140.

SUPPLEMENTARY INFORMATION: This action is authorized by the FMP and implementing regulations at 50 CFR 600.745 and 50 CFR 660.350.

On April 5, 2001, NMFS received an EFP application from the WSDFW. The purpose of this exempted fishing activity would be to measure bycatch rates for canary rockfish and other rockfish species associated with fishing strategies currently used in the northern arrowtooth flounder fishery off Washington State.

Fishing for arrowtooth flounder, which is an abundant and commercially important species off Washington State, is constrained by efforts to rebuild canary rockfish, an overfished species. Fishers who have historically targeted arrowtooth flounder believe that the fishery can be prosecuted with a much lower rockfish bycatch rate than is currently assumed.

If issued, this EFP would allow certain vessels with valid Washington State delivery permits to retain and sell groundfish species in excess of cumulative trip limits, and would provide for a State-run observer program where observers collect and retain specimens of otherwise prohibited fish caught by the vessel. Observers would also collect much-needed data from which incidental catch rates and total catch of various species and species groups could be estimated. Without an EFP, groundfish regulations at 50 CFR 660.306(f) restrict vessels from landing groundfish species or species groups in excess of trip limits.

Data collected during this project is expected to have a broad significance to the management of the groundfish fishery by providing much needed information on: (1) Total catch in the northern flatfish fishery; (2) catch rates of incidentally caught species, including canary rockfish by fishing location; and (3) age structure data that is otherwise not available from landed catch. To the extent possible, data provided by the State observers will be compatible with that data collected by the NMFS coastwide observer program. If the EFP is issued, approximately seven vessels are expected to fish under the EFP from July to September 2001. All groundfish caught under this EFP would be counted against the optimum yields (OYs) for those species and will not result in total harvest above expected levels. NMFS will include special provisions should they be necessary to ensure that the canary rockfish OY is not exceeded.

In accordance with Pacific Coast groundfish regulations, NMFS has determined that the proposal warrants further consideration and has initiated consultation with the Pacific Fishery Management Council (Council). The Council will consider the EFP application during its June 11-15, 2001, meeting, which will be held at the Park Plaza Hotel, in Burlingame, CA. The applicants have been invited to appear in support of their application. A copy of the application is available for review from NMFS (see **ADDRESSES**).

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

Dated: May 22, 2001.

Richard W. Surdi,

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

[FR Doc. 01–13434 Filed 5–25–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 103
Tuesday, May 29, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: U.S. Agency for International Development (USAID) has submitted the following information collection to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for USAID, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington DC 20503. Copies of submission may be obtained by calling (202) 712–1365.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–0552.
Form Number: N/A.
Title: Financial Status Report.
Type of Submission: Renewal of Information Collection.

Purpose: USAID wants to continue to require expanded financial reporting from recipients of grant and cooperative agreements (CA) with places of performance covering multiple countries. Recipients would be required to provide financial reports with expenditure data by country. For assistance programs which cover programs in more than one country, USAID requires recipients to specify in the "remarks" section of SF–269 and SF–269A, or other applicable approved financial report form, by country, the amount of the total Federal share which was expended for each country. USAID has sought a class deviation to the statute from the Office of Management and Budget (OMB) in accordance with the 22 CFR 226.4. The information is being collected so that USAID may report to Congress, OMB, and other requestors per the requirements of the Government Performance and Results Act and the government Management Reporting Act. Also, the reporting requirements are necessary to ensure that USAID funds are expended in accordance with statutory requirements and USAID policies. USAID is seeking this waiver for a period of three years.

Annual Reporting Burden

Respondents: 118.
Total annual responses: 472.
Total annual hours requested: 800 hours.

Dated: May 17, 2001.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 01–13323 Filed 5–25–01; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 01–015N]

Science Based Reinspection of Imported Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing a public meeting on June 8, 2001, to describe the Agency's plans for the modernization of port-of-entry reinspection of meat and poultry food products, including changes being made to the Automated Import Information System (AIIS).

DATES: The public meeting will be held on June 8, 2001, from 8:30 a.m. to 12:30 p.m. Preregistration is not necessary.

ADDRESSES: The public meeting will be held in the Columbia Room, Holiday Inn Capitol, 550 C Street SW., Washington, DC 20024, telephone (202) 479–4000. Transcripts of the meeting will be available in the FSIS Docket Office, Room 102–Annex, 300 12th Street, SW., Washington, DC 20250–3700. In addition to publishing this **Federal Register** notice, before the meeting, FSIS will alert consumers, industry groups, and foreign governments of the meeting through its FSIS Home Page at *http://www.fsis.usda.gov*, and the Constituent Updates and Alerts.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Stuck, Acting Director, International Policy Staff, Office of Policy, Program Development, and Evaluation, telephone (202) 720–6400, or by FAX (202) 720–7990. Individuals wishing to present a prepared statement will be given an opportunity to speak at the end of the meeting. Oral statements will be limited to 5 minutes, with an opportunity to submit a longer written statement for the record. Any individual wishing to make a statement should contact Ms. Anita Manka no later than noon on June 7, 2001, at (202) 720–6400. In addition, there will be time allowed at the end of the meeting for questions and answers. Attendees requiring sign-language interpreters or other special accommodation should contact Ms. Ida Gambrell, by June 1, 2001, at (202) 690–6523 or by FAX at (202) 690–6519.

SUPPLEMENTARY INFORMATION:

Background

The United States Department of Agriculture, through the Food Safety and Inspection Service (FSIS), ensures that domestic and imported meat and poultry products are safe, wholesome, and accurately labeled. In 2000, the United States imported 3.72 billion pounds of meat and poultry from 31 countries.

The Federal Meat Inspection Act and the Poultry Products Inspection Act require foreign countries that export meat and poultry products to the United States to establish and maintain inspection systems that are equivalent to the U.S. inspection system. Countries must undergo a rigorous review process before they can become eligible to export meat or poultry products to the United States. The initial equivalence determination includes, but is not limited to, an extensive document and on-site review of the country's legislation, its command-and-control infrastructure, inspector training, inspection procedures, and laboratory analytical support services. Even after a country is granted eligibility, FSIS periodically audits the foreign country's inspection program to ensure that it remains equivalent to the U.S. system. As a further check on the performance of the foreign country's inspection system, FSIS reinspects products on a

sample basis as they enter the U.S., after they have already been inspected and passed by the foreign country's equivalent inspection system.

About 75 FSIS inspectors carry out reinspection at approximately 150 official import establishments located at land and water ports on the perimeter of the country. All shipments of products are checked for proper certification and general condition, and some shipments are randomly selected for additional reinspection assignments as directed by the Automated Import Information System (AIIS). The AIIS, which was implemented in 1978, is a computer system that links all ports of entry, makes inspection assignments, and collects compliance histories for countries and plants. FSIS uses AIIS information in verifying and evaluating the performance of the foreign country's inspection system. FSIS import inspectors enter data about shipments, and the AIIS identifies shipments for sampling and determines the appropriate inspection assignment. Assignments can include product examination; determination of condition of container; and microbiological, residue, and food chemistry laboratory analysis.

The principle underlying FSIS import inspection activities is the systems approach, which focuses on a foreign country's overall inspection system rather than on individual establishments. The intent of the current revision of the port-of-entry reinspection program is to extend the systems approach to all port-of-entry activities.

For all countries except Canada, the monitoring assignments directed by the AIIS are based on the compliance history of the foreign plant for the specific product being imported. Since 1989, FSIS has used a random sampling approach for shipments from Canada. For Canada, the AIIS randomly selects shipments from the country, as a whole, for monitoring sampling by FSIS. Once selected, a shipment is subject to the full range of reinspection assignments applicable to the specific product. By contrast, the shipments selected for reinspection from all other countries are subject to one or more reinspection assignments based on the compliance history of the plant.

FSIS plans to revise the port of entry reinspection program for imported meat and poultry products by extending to all countries the systems approach used to monitor Canada for more than 10 years. FSIS plans to revise the reinspection system to: (1) Focus the sampling of products at port of entry on monitoring a country's inspection system rather than individual plants within the system; (2) reprogram the AIIS to accommodate the new system and to provide better information for making equivalency decisions; and (3) modify procedural and facility requirements for import establishments to increase the responsibility of the industry for control of imported meat and poultry. Some elements could require rulemaking, and FSIS will use the public meeting to explain current thinking on the subject.

Re-programming the AIIS is long overdue and will provide an automated system better able to respond to inspection changes and to provide timely reports on a country's performance to program managers. FSIS estimates that the new system will be fully operational by the end of 2001. Adoption of the systems approach for port-of-entry reinspection of meat and poultry from all countries will facilitate the collection of more statistically reliable data on a country's performance. FSIS currently uses more than 300 product codes to designate product categories for import reinspection. Changing the entry of shipment data in the AIIS to processing categories already established by FSIS in the HACCP regulations (9 CFR 417.2(b)(i)–(ix)), e.g, raw product ground; raw product not ground; thermally processed-commercially sterile; product not heat treated-shelf stable; and fully cooked-not shelf stable, will streamline the system and make it more compatible with HACCP rules. Using the domestic program's processing category system will simplify entry, ensure consistency between domestic and imported requirements, and provide a seamless system that can be more easily used by all FSIS inspectors.

FSIS will not change the standards used to judge the acceptability of meat and poultry products re-inspected at the port of entry. When the shipment fails a reinspection, the exporting establishment will continue to be subject to follow-up sampling, which is in addition to the targeted monitoring levels for the exporting country.

FSIS believes that the modernization of the way it performs reinspection of imported meat and poultry products is necessary to fully utilize the systems approach and to strengthen the basis for judging the continued equivalence of inspection systems maintained by foreign countries exporting meat and poultry products to the U.S.

The Agency invites all interested parties to participate in the June 8, 2001, public meeting to gain a better understanding of the changes FSIS plans to make and to have the opportunity to request clarification.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at http://www.fsis.usda.gov. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC on: May 23, 2001.

Thomas J. Billy,

Administrator.

[FR Doc. 01–13387 Filed 5–25–01; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 01–014N]

National Advisory Committee on Meat and Poultry Inspection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The National Advisory Committee on Meat and Poultry Inspection (NACMPI) will hold a public meeting on June 5–6, 2001, to review and discuss three issues: (1) Emerging egg and egg products strategy, (2) Industry's petition of proposed changes to the HACCP final rule—Agency current thinking, and (3) Federal, State, and Local government working relationships on food safety issues—new directions. The three

subcommittees of the full Committee will also meet on June 5, 2001, to work on issues discussed during the full Committee session. All interested parties are welcome to attend the meeting and to submit written comments and suggestions concerning issues the Committee will review and discuss.

DATES: The full Committee will hold a public meeting on Tuesday, June 5, and Wednesday, June 6, 2001 from 8:30 a.m. to 5:00 p.m. Subcommittees will hold open meetings on Tuesday, June 5, 2001, from 7 p.m. to 9 p.m.

Note: FSIS was not able to publish notification of this public meeting in the **Federal Register** at least 15 days prior to the meeting, as required by Departmental Regulation 1041–001, due to late changes to the agenda.

ADDRESSES: All Committee meetings will take place at the Holiday Inn Capitol at the Smithsonian Hotel, 550 C Street, SW., Washington, DC 20024; telephone (202) 554–2780. The full committee will meet in main ballroom Columbia I & II on June 5–6, 2001. The subcommittees will meet in the Saturn, Venus and Jupiter Rooms. A meeting agenda is available on the FSIS Web Site at *http://www.fsis.usda.gov/OPPDE/nacmpi* which is a sub-web page of the FSIS Homepage at *http://www.fsis.usda.gov*. Submit one original and two copies of written comments to FSIS Docket Room, Docket #01–014N, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102 Cotton Annex, 300 12th Street SW., Washington, DC 20250–3700. Comments may also be sent by facsimile (202) 205–0381. The comments and the official transcript of the meeting, when they become available, will be kept in the FSIS Docket Room at the address provided above. All comments received in response to this notice will be considered part of the public record and will be available for reviewing in the FSIS Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles L. Gioglio for technical information at (202) 205–0256 and for meeting information contact Sonya L. West at (202) 720–2561, FAX (202) 205–0157, or E-mail *sonya.west@usda.gov*. Persons requiring a sign language interpreter or other special accommodations should notify Ms. West by May 29, 2001, at the above numbers or by e-mail. Information is also available on FSIS Web Site at *http://www.fsis.usda.gov/OPPDE/nacmpi*.

SUPPLEMENTARY INFORMATION:

Background

On January 19, 2001, the Secretary of Agriculture renewed the charter for the NACMPI. The Committee provides advice and recommendations to the Secretary of Agriculture pertaining to the Federal and State meat and poultry inspection programs pursuant to sections 7(c), 24, 205, 301(a)(3), and 301(c) of the Federal Meat Inspection Act and sections 5(a)(3), 5(c), 8(b), and 11(e) of the Poultry Products Inspection Act. The Administrator of FSIS is the chairperson of the Committee. Membership of the Committee is drawn from representatives of consumer groups; producers, processors, and marketers from the meat and poultry industry; State government officials; and academia. The current members of the NACMPI are: Dr. Gladys Bayse, Spelman College; Nancy Donley, Safe Tables Our Priority; Sandra Eskin, American Association of Retired Persons; Carol Tucker Foreman, Food Policy Institute, Consumer Federation of America; Michael Govro, Oregon Department of Agriculture; Martin Holmes, North American Meat Processors; Dr. Lee C. Jan, Texas Department of Health; Alice Johnson, National Turkey Federation; Collette Schultz Kaster, Premium Standard Farms; Dr. Daniel E. LaFontaine, South Carolina Meat Poultry Inspection Department; Dr. Irene Leech, Virginia Tech; Charles Link, Rocco Inc.; Dr. Catherine Logue, North Dakota State University; Michael Mamminga, Iowa Department of Agriculture; Dr. Dale Morse, New York Office of Public Health; Dr. Elsa Murano, Texas A&M University; and John Neal, Courseys Smoked Meats.

The Committee has three standing subcommittees to deliberate on specific issues and make recommendations to the whole Committee. The Committee makes recommendations to the Secretary of Agriculture.

Members of the public will be required to register before entering the meeting.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at http://www.fsis.usda.gov. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience.

For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC on: May 23, 2001.

Thomas J. Billy,

Administrator.

[FR Doc. 01–13388 Filed 5–25–01; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Environmental Assessment for an Amendment to the Mark Twain National Forest Land and Resource Management Plan: Barry, Bollinger, Boone, Butler, Callaway, Carter, Christian, Crawford, Dent, Douglas, Howell, Iron, Laclede, Madison, Oregon, Ozark, Phelps, Pulaski, Reynolds, Ripley, Ste. Genevieve, St. Francis, Shannon, Stone, Taney, Texas, Washington, Wayne and Wright Counties, MO

AGENCY: Forest Service, USDA.

ACTION: Notice of availability.

SUMMARY: On May 28, 1999, Mark Twain National Forest supervisor, Randy Moore, (Responsible Official) initiated a proposal to amend the 1986 Mark Twain National Forest Land and Resource Management Plan (Forest Plan). On April 26, 2001, the resultant Environmental Assessment available for a 30 day public comment period. Copies of the Environmental Assessment are available upon request. The current preferred alternative (Alternative 3), adds standards and guidelines for Fish/Aquatic Ecosystems, Recreation Management, Heritage Resources management and adds Management Prescription 7.1. This notice is provided pursuant to National Forest System Land and Resource Management Planning regulations (36 CFR part 217, 65 FR 67579, November 9, 2000)

All comments received will be evaluated and considered in making the final decision.

DATES: Comments must be received in writing by May 29, 2001.

ADDRESSES: Send requests for documents to: Forest Supervisor, Mark Twain National Forest, 401 Fairgrounds Road, Rolla, MO 65401 Or via the forest web page at *www.fs.fed.us/r9/marktwain*

FOR FURTHER INFORMATION CONTACT: Kristine Swanson, Integrated Resources Staff Officer, at 573–364–4621, ext. 416. TDD 573–364–6844; or direct electronic mail to mailroom__r9__marktwain@fs.fed.us with the words "NEPA Supervisors Office" in the subject line.

Responsible Official: Randy Moore, Forest Supervisor, 401 Fairgrounds Road, Rolla, MO 65401.

SUPPLEMENTARY INFORMATION: This amendment would add standards and guidelines to the Wildlife Habitat Management section and Recreation and Heritage Resource Management sections of the Mark Twain Land and Resource Management Plan. This new guidance responds to new management guidance, revised Forest Service policy and regulatory mandates, the Forest Service Natural Resource Agenda, and will make the Forest Plan easier to read, understand, and implement in the areas of fisheries, heritage and recreation resource management only.

This is a non-significant amendment.

Dated: May 21, 2001.

Randy Moore,

Forest Supervisor.

[FR Doc. 01–13375 Filed 5–25–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Suction Dredging Activities; Siskiyou National Forest, Josephine, Coos, and Curry County, OR; Del Norte County, CA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The USDA, Forest Service (UFS), Siskiyou Forest National Forest, will prepare an Environmental Impact Statement (EIS). The purpose of the EIS is to summarize and disclose the environmental effects of a Proposed Action to approve proposed Plans of Operation for suction dredging within Riparian Reserves on mining claims located across the Siskiyou National Forest.

The Proposed Action is designed to be consistent with the Siskiyou National Forest Land and Resource Management Plan (1989), as amended by the Record of Decision for the Northwest Forest Plan (1994), and is scheduled for implementation during Calendar Year 2002.

Among several requirements, the 1994 Northwest Forest Plan Standard and Guideline MM–1 required that all minerals operations within Riparian Reserves must have an approved Plan of Operation. Additionally, a 1999 lawsuit ruling re-affirmed that the Siskiyou National Forest must implement the Northwest Forest Plan Standard and Guideline MM–1. The Siskiyou National Forest invites you to submit written issues with the Proposed Action. In addition, written issues will be solicited during public scoping efforts. The forest will also give notice of the full environmental analysis and decision making process so that interested and affected people are made aware as to how they may participate and contribute to the final decision.

DATES: Issues concerning the Proposed Action must be received by June 29, 2001.

ADDRESSES: Submit written issues regarding the Proposed Action to Jack Williams, Forest Supervisor, Siskiyou National Forest, 333 W. 8th Street, P.O. Box 520, Medford Oregon 97501.

FOR FURTHER INFORMATION CONTACT: Direct questions about the Proposed Action and EIS to Roger Mendenhall, Interdisciplinary Team Leader, Siskiyou National Forest, 200 N.E. Greenfield, P.O. Box 440, Grants Pass, Oregon 97526–0242; phone # 541–471–6500.

SUPPLEMENTARY INFORMATION: The Plans of Operation for suction dredging would occur within all of the major watersheds of Siskiyou National Forest.

The Forest Service will consider submitted issues to the Proposed Action in determining the kinds and depths of analysis needed. They may also be used to develop additional alternatives to the Proposed Action that would respond to significant issues. The no-action alternative, not approving the Plans of Operation, will also be considered.

Public participation will be important at several times during the analysis. The first time is during scoping. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1501.7. The Agency will be seeking written issues with the Proposed Action from Federal, State, and local agencies, affected Indian tribes, and individuals who may be interested in or affected by the Proposal.

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and be available for review by July 2001. The comment period for the Draft EIS will be 45 days from the date that the EPA publishes the Notice of Availability in the **Federal Register**.

Submissions received in response to this notice, including names and addresses of those who comment, will be considered part of the public record on this Proposed Action and will be available for public inspection. Comments submitted anonymously will be accepted and considered, however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR part 215. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) Permits such confidentiality. Person requesting such confidentiality should be aware that, under the FOIA, confidentially may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the request of the agency's decision regarding the request for confidentiality, and where the request is denied, he agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

The Forest Service believes it is important to give Reviewers notice, at this early stage, of several court rulings related to public participation in the environmental review process. First, a reviewers of a Draft EIS must structure their submissions in the environmental review process so that they are specific, meaningful, and alerts an agency to reviewer's position and contentions. *Vermont Yankee Power Corp.* v. *NRDC,* 435 U.S. 519, 533 (1978). Also, environmental objections that could be raised at the Draft EIS stage, but that are not raised until after the completion of the final EIS, may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d. 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 409 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this Proposed Action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time

when it can meaningfully consider and respond to them in the Final EIS.

To assist the Forest Service in identifying and considering comments, comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the Draft EIS. Comments may address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in EIS. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the 45 day comment period ends on the Draft EIS, comment will be considered and analyzed by the Agency in preparing the Final EIS. The Final EIS is scheduled for completion by October 2001. In the Final EIS, the Forest Service is required to respond to respond to the comments and responses received during the comment period that pertain to the environmental consequences discussed in the Draft EIS, applicable laws, regulations, and policies considered in making the decision regarding the proposal.

The Forest Service Responsible Official is Jack Williams, Forest Supervisor, of the Siskiyou National Forest. The Responsible Official will consider the Final EIS, applicable laws, regulations, policies, and analysis files in making a decision. The Responsible Official will document the decision and rationale in the Record of Decision. The decision will be subject to appeal by the general public under regulation 36 CFR 215.

Dated: May 17, 2001.

Jack E. Williams,

Forest Supervisor.

[FR Doc. 01–13374 Filed 5–25–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Technical Advisory Committee will meet on June 13, 2001, 10:30 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

Agenda

Public Session

1. Opening remarks and introductions.

2. Presentation of papers and comments by the public.

3. Status report on proposed revision to missile technology controls for composites and composite production equipment: relationship of cure temperature and glass transition temperature after curing.

Closed Session

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

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the materials should be forwarded prior to the meeting to the address below: Ms. Lee Ann Carpenter, OSIES/EA/BXA MS: 3876, U.S. Department of Commerce, 14 St. & Constitution Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on March 7, 2000, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3) of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public. A copy of the Notice of Determination to close meetings or potions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For more information or copies of the minutes call Ms. Lee Ann Carpenter at (202) 482–2583.

Dated: May 22, 2001.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 01–13390 Filed 5–25–01; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet June 12, 2001, 9 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implantation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

Public Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Update on pending regulations.
4. Work group activity reports and discussion.
5. Update on Bureau of Export Administration initiatives.

Closed Session

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

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

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 12, 2001, pursuant to Section 10(d) of the

Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in sections 10(a)(1) and 10(a)(3) of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

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

Dated: May 23, 2001.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 01–13389 Filed 5–25–01; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of Fifth New Shipper Review

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

ACTION: Notice of preliminary results and partial rescission of fifth new shipper review.

SUMMARY: The Department of Commerce is currently conducting the fifth new shipper review of the antidumping duty order on brake rotors from the People's Republic of China covering the period April 1, 2000, through September 30, 2000. This review covers three exporters. We have preliminarily determined that two exporters have made sales at not less than normal value. For the other exporter, we have preliminarily determined that it failed to demonstrate its entitlement to a separate rate and thus are preliminarily rescinding the review with respect to it. If these preliminary results are adopted in our final results of this review, we will instruct the Customs Service to assess no antidumping duties on entries of subject merchandise during the period of review from the two exporters, for which the importer-specific assessment rates are zero or *de minimis* (*i.e.*, less than 0.50 percent), and to assess duties on all entries of subject merchandise made during the period of review by the other exporter at the country-wide rate. Furthermore, we will instruct the Customs Service to require a cash deposit on all future entries of the subject merchandise from that exporter at the country-wide rate.

We will issue the final results no later than 90 days from the date of issuance of this notice.

EFFECTIVE DATE: May 29, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Brian Ledgerwood, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–3836, respectively.

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. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (2000).

SUPPLEMENTARY INFORMATION:

Background

On October 31, 2000, the Department received timely requests from Beijing Concord Auto Technology Inc. ("Concord"), Qingdao Meita Automotive Industry Co., Ltd. ("Meita"), and Shandong Laizhou Huanri Group General Co. ("Huanri General") for a new shipper review of this antidumping duty order in accordance with 19 CFR 351.214(c). In their requests for a new shipper review and in accordance with 19 CFR 351.214(b)(2)(i) and (iii)(A), Concord, Huanri General, and Meita each certified that it did not export the subject merchandise to the United States during the period covered by the original less-than-fair-value ("LTFV") investigation and that it is not affiliated with any company which exported the subject merchandise to the United States during the period of investigation ("POI"). Concord, Huanri General, and Meita also certified that their export activities are not controlled by the central government of the People's Republic of China ("PRC"). Pursuant to 19 CFR 351.214(b)(2)(iv), Concord, Huanri General, and Meita submitted documentation establishing the date on which the merchandise was first entered for consumption in the United States, the volume of that first shipment, and the date of the first sale to an unaffiliated customer in the United States.

The Department initiated a new shipper review covering Concord, Huanri General, and Meita on November 20, 2000. *See Brake Rotors from the People's Republic of China: Initiation of New Shipper Antidumping Duty Review*, 65 FR 70695 (November 27, 2000).

On November 28, 2000, we issued a questionnaire to each PRC company listed in the brake rotor initiation notice. On December 5, 2000, the Department provided the parties an opportunity to submit publicly available information for consideration in these preliminary results. On December 28, 2000, Concord, Huanri General, and Meita requested an extension of time until January 19, 2001, to file their responses to the antidumping duty questionnaire, which the Department subsequently granted on December 29, 2000. On January 9, 2001, the petitioner [1] requested an extension of time until February 20, 2001, to submit publicly available information for consideration in the preliminary results, which the Department subsequently granted to all parties on January 16, 2001.

On January 25, 2001, the Department notified the respondents that it intended to conduct a verification of their responses to the antidumping duty questionnaire in this review and provided each respondent with a sample verification outline for purposes of familiarizing each company with the verification process. On January 19, 2001, each respondent submitted its questionnaire response.

Also on January 25, 2001, the Department issued supplemental questionnaires to each respondent. On February 5, 2001, each respondent requested an extension of time until February 23, 2001, to file its response to the supplemental questionnaire, which the Department subsequently granted on February 7, 2001. On February 23, 2001, each respondent submitted its supplemental questionnaire response.

On February 20, 2001, the respondents and the petitioner submitted publicly available information. On February 27, 2001, the respondents and the petitioner provided rebuttal comments on the publicly available information submitted by the other.

On March 2, 2001, the Department provided a verification outline to each

[1] The petitioner is the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers.

respondent. Also on March 2, 2001, the petitioner provided comments on the respondent's questionnaire responses for consideration by the Department. From March 9 through March 28, 2001, the Department conducted its verification of the information submitted by each respondent, in accordance with 19 CFR 351.307.

On April 24 and 27, 2001, the Department issued its verification reports. We provided parties with an opportunity to submit comments on our verification findings for consideration in these preliminary results (*see* April 25, 2001, Memorandum from Brian C. Smith, Team Leader, to the File and April 27, 2001, Memorandum from Brian E. Ledgerwood, Financial Analyst, to the File). On May 2 and 4, 2001, the parties submitted their comments on the Department's verification findings. On May 7, 2001, the petitioner submitted rebuttal comments.

Scope of the Order

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all-terrain vehicles, vans and recreational vehicles under "one ton and a half," and light trucks designated as "one ton and a half."

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi-finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer ("OEM") which produces vehicles sold in the United States (*e.g.*, General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in this order are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are currently classifiable under subheading 8708.39.5010 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Period of Review

The period of review ("POR") covers April 1, 2000, through September 30, 2000.

Verification

As provided in section 782(i)(2) of the Act, we verified information provided by each respondent. We used standard verification procedures, including on-site inspection of the manufacturer's facilities and examination of relevant sales and financial records. Our verification results are outlined in the verification report for each company (*see* April 24, 2001, Verification Report for Huanri General and Laizhou Huanri Automobile Parts Co., Ltd. ("Huanri Auto") in the Fifth Antidumping Duty New Shipper Review ("Huanri General verification report"), April 24, 2001, Verification Report for Concord and Yantai Mouping Hongli Machinery Factory ("Hongli") in the Fifth Antidumping Duty New Shipper Review ("Concord verification report"), and the April 27, 2001, Verification Report for Qingdao Meita Automotive Industry Co., Ltd. in the Fifth Antidumping Duty New Shipper Review ("Meita verification report") for further discussion).

Partial Rescission of New Shipper Review

We are preliminarily rescinding, in part, the fifth new shipper review with respect to Concord because it failed to demonstrate at verification that it was entitled to a separate rate (*see* "Separate Rates" section below for further discussion).

Separate Rates

In proceedings involving non-market-economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate (*i.e.*, a PRC-wide rate).

One respondent, Meita, is wholly foreign-owned. Thus, for Meita, a separate-rates analysis is not necessary to determine whether it is independent from government control (*see Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71105 (December 20, 1999).

With respect to the petitioner's May 4, 2001, contention that Meita should be denied a separate rate because it failed to provide its fiscal year ("FY") 2000 financial statements, no separate-rates analysis is necessary for Meita since it is wholly foreign-owned. As for Meita's inability to provide its FY 2000 financial statements, the Department's verification findings note that Meita was unable to provide these documents at verification because it had not prepared it as of the date of the verification. Reliance on its accounting records and source documentation (including bank statements) provided the Department with the necessary documentation to determine the accuracy of the data Meita submitted in its questionnaire response. Moreover, the Department does not consider a company not having a financial statement at verification (especially if the company's auditing period follows the Department's verification) to constitute grounds for automatic failure or evidence that its accounting records are unreliable. The Department cannot require the respondent to furnish financial documents that have not been created in the normal course of business as of the date of verification. Therefore, we find the petitioner's argument is without merit.

Huanri General claims that it is collectively owned by local villagers and Concord claims that it is owned by private PRC individuals. Thus, for these two companies, a separate-rates analysis is necessary to determine whether this exporter is independent from government control (*see Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China* ("*Bicycles*") 61 FR 56570 (April 30, 1996)).

To establish whether a firm is sufficiently independent in its export activities from government control to be entitled to a separate rate, the Department utilizes a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), and amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"). Under the separate-rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. De Jure Control

Huanri General has placed on the administrative record documents to demonstrate absence of *de jure* control, including the "Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People," adopted on April 13, 1988 ("the Industrial Enterprises Law"); "The Enterprise Legal Person Registration Administrative Regulations," promulgated on June 13, 1988; the 1990 "Regulation Governing Rural Collectively-Owned Enterprises of PRC;" the 1992 "Regulations for Transformation of Operational Mechanisms of State-Owned Industrial Enterprises;" ("Business Operation Provisions"); and the 1994 "Foreign Trade Law of the People's Republic of China."

As in prior cases, we have analyzed these laws and have found them to establish sufficiently an absence of *de jure* control of companies "owned by the whole people," privately owned enterprises, joint ventures, stock companies including limited liability companies, and collectively owned enterprises. *See, e.g., Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China ("Furfuryl Alcohol")* 60 FR 22544 (May 8, 1995), and *Preliminary Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 29571 (June 5, 1995).

In its May 2, 2001, submission, the petitioner included an August 28, 2000, article from the *International Herald Tribune* and an April 2, 2000, article from *AP Worldstream*, claiming that excerpts from these articles constituted evidence that the village committee members, who set up Huanri General, are chosen by the local PRC Communist Party branch or officials at the PRC town government level. After examining the information provided by the petitioner in the context of the laws we have examined in previous NME proceedings, we do not have a sufficient basis in this proceeding to conclude that the information provided by the petitioner constitutes grounds for conclusively determining that collectively owned companies (such as Huanri General) are controlled *de jure* by the PRC government because the information noted above does not directly relate to the company under review.

2. De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Silicon Carbide* and *Furfuryl Alcohol*. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to the approval of, a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses (*see Silicon Carbide* and *Furfuryl Alcohol*).

Concord and Huanri General each asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans.

With respect to Concord, as detailed in the Department's April 24, 2001, verification report at page three, Concord was unable to provide for the Department's review its bank statements for the POR. As a result, the Department was unable to determine the extent of Concord's deposit and withdrawal activity from its bank accounts or link the bank deposit and withdrawal receipts it did examine to entries reflected in the company's statements furnished by its banks.

As stated above, one of the Department's *de facto* criteria for determining whether an exporter is entitled to a separate rate is that the exporter must demonstrate that it retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses. In its May 4, 2001, submission, the respondent maintains that the Department was able to establish through an examination of source documentation (*i.e.*, bank receipts, voucher booklets, invoices, etc.) at verification that Concord controlled the disposition of its sales proceeds and that, therefore, it had demonstrated a *de facto* absence of government control with respect to its export activities. However, contrary to the respondent's assertion, absent review of the company's bank statements for the POR, the Department was unable to ascertain whether Concord retained all of its proceeds from the sale of subject merchandise and made independent decisions regarding the disposition of profits or financing of losses. Specifically, without the bank statements, the Department could not confirm that all of Concord's secondary documentation (*i.e.*, bank receipts) was provided at verification and therefore could not confirm that the company met the above-mentioned *de facto* criterion. The Department could rely only on the bank receipts furnished by the company at verification to check whether the company retained its proceeds, rather than trace the amounts of those receipts to its bank accounts. Relying only on bank receipts without a reliable reference document with which to reconcile them is insufficient for purposes of testing the disposition of the company's proceeds. In this instance, because we were unable to reconcile Concord's bank receipts with an independent reference document such as a bank statement, we determined that the bank receipts were insufficient for the purposes of examining whether Concord controlled the disposition of its profits. Therefore, absent examination of a primary reference document (*e.g.*, the bank statement), the Department was unable to adequately verify Concord's claim.

As a result of not being able to provide critical documentation at verification for demonstrating an absence of *de facto* government control based on the separate-rates criteria outlined above, the Department preliminarily finds that Concord has not adequately demonstrated that it is not part of the NME entity. Therefore, we find that Concord is not entitled to a separate rate. As part of the NME entity, Concord is not entitled to a rate as a new shipper because the NME entity as a whole was subject to the LTFV investigation. For these reasons, we are preliminarily rescinding the new shipper review with respect to Concord.

As for Huanri General, the Department preliminarily finds that Huanri General has demonstrated a *de facto* absence of government control and is entitled to a separate rate for the several reasons. As detailed in the verification report and supported by documentation examined at verification,

Huanri General was set up by the Panjacun village committee through capital voluntarily provided by all of the inhabitants of Panjacun village. At verification, the Department further clarified that the members of the village committee were elected to the committee by the villagers who also provided the capital to set up Huanri General (*see* pages 5 and 7 of the Huanri General verification report). Data on the record establishes that the villagers are the long-term investors/shareholders in Huanri General and that the villagers determine via election the individuals who serve on the village committee. Further, the villagers have entrusted the village committee to decide how and when Huanri General's profits are to be distributed. In this case, the villagers have in fact elected a group within the same village (*i.e.*, the village committee) to handle the business decisions and operation strategy of the company which is wholly owned by all the villagers, some of whom are also elected members of the village committee. Based on these facts, we conclude that the central government does not control Huanri General's export activities.

The petitioner contends in its May 2, 2001, submission that the village committee is a PRC government entity which has a financial relationship with the town government and that this link constitutes government control of Huanri General's operations. We have ruled in previous NME cases that companies which are either owned by local or provincial government entities or the managers of which are appointed by the provincial, not the central, government can also receive a separate rate if they sufficiently demonstrate that they are entitled to one based on the criteria set forth in *Sparklers* and amplified in *Silicon Carbide* and *Furfuryl Alcohol*. For example, in one NME case, the Department found that although, the local government owned an exporting company, that company elected its own management and was responsible for all decisions such as determining export prices, allocation and retention of profits on export sales, and negotiating export sales contracts (*see Chrome-Plated Lug Nuts from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 60 FR 42504, 42505 (August 16, 1995) ("*Lug Nuts*")). The Department also found in another NME case that, although the provincial government appointed the management of a company, that company was entitled to a separate rate because it was able to demonstrate that it solely performed the *de facto* activities noted above and there was no evidence of significant government involvement in that company's business operations (*see Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty New Shipper Administrative Review*, 63 FR 3085, 3086 (January 21, 1998) ("*Pure Magnesium*").

With respect to Huanri General, the data on the record demonstrates that, unlike the situations which existed in *Lug Nuts* and *Pure Magnesium*, we have no evidence that this company is owned by the town government or that its management is appointed by the town government. Rather, this company is ultimately owned by the villagers of Panjacun village. Moreover, the president of the company (who is also the company's legal representative on the company's business license and was elected by the villagers as the chairman of the village committee) appoints the managers. Consistent with the facts in *Pure Magnesium* and *Lug Nuts*, Huanri General in this case has also demonstrated that it is responsible for all decisions such as determining export prices, allocation and retention of profits on export sales, and negotiating export sales contracts. Although the village committee actually decides how the company's profits are to be distributed, we do not find that the village committee constitutes a form of central or provincial government control over the company, especially since all of the village committee members are investors in the company.

We also are not convinced by the petitioner's argument that the village committee's dealings with the town government constitute evidence that the town government controls both the village committee's and Huanri General's operations. Based on our examination of the village committee's financial records at verification, we found that the village committee is an entity which simply pays infrastructure taxes to the town government and to which the town government owes money (*see* page 6 of the Huanri General verification report). Thus, in this case, the town government is a debtor to the village committee. These activities are no different than those of any company paying its taxes and operating a business without government interference in the PRC. Moreover, the information provided by Huanri General in its response and amplified and/or clarified at verification supports a preliminary finding that there is de facto absence of governmental control of the export functions of Huanri General. *See Pure Magnesium from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Administrative Review*, 62 FR 55215 (October 23, 1997). Consequently, we have preliminarily determined that Huanri General has met the criteria for the application of separate rates.

Fair Value Comparisons

To determine whether sales of the subject merchandise by Huanri General and Meita to the United States were made at LTFV, we compared the export price to the normal value, as described in the "Export Price" and "Normal Value" sections of this notice, below.

Export Price

We used export price methodology in accordance with section 772(a) of the Act because the subject merchandise was sold by the exporter directly to an unaffiliated customer in the United States prior to importation and constructed export price was not otherwise indicated.

For both respondents, we calculated export price based on packed, FOB foreign port prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and foreign brokerage and handling charges in the PRC, in accordance with section 772(c) of the Act. Because foreign inland freight and foreign brokerage and handling fees were provided by PRC service providers or paid for in renminbi, we based those charges on surrogate rates from India (*see* "Surrogate Country" section below for further discussion of our surrogate-country selection). To value foreign inland trucking charges, we used a November 1999 average truck freight value based on price quotes from Indian trucking companies. We used this rate most recently in the fourth new shipper review of brake rotors from the PRC (*see Brake Rotors from the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review*, 66 FR 27063 (May 16, 2001) (which cites to *Brake Rotors from the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review*, 66 FR 1303, 1308 (January 8, 2001)) ("*Brake Rotors Fourth New Shipper Review*")). To value foreign brokerage and handling expenses, we relied on public information reported in the 1997–1998 antidumping duty new shipper review of stainless steel wire rod from India (*see* also *Brake Rotors Fourth New*

Shipper Review). Based on our verification findings, we revised the reported distance from Huanri General's supplier factory, Huanri Auto, to the port of exportation (*see* page 16 of the Huanri General verification report).

Normal Value

A. Non-Market-Economy Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the administering authority (*see Notice of Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews, Partial Rescission of the Antidumping Duty Administrative Review, and Rescission of a New Shipper Review: Freshwater Crawfish Tail Meat From the People's Republic of China*, 65 FR 60399, 60404 (October 11, 2000).) None of the parties to this proceeding has contested such treatment. Accordingly, we calculated normal value in accordance with section 773(c) of the Act, which applies to NME countries.

B. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value a NME producer's factors of production, to the extent possible, in one or more market-economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. India and Indonesia are among the countries comparable to the PRC in terms of overall economic development (*see* December 4, 2000, Memorandum from the Office of Policy to Brian C. Smith, Team Leader). In addition, based on publicly available information placed on the record, India is a significant producer of the subject merchandise. Accordingly, we considered India the primary surrogate country for purposes of valuing the factors of production because it meets the Department's criteria for surrogate-country selection. Where we could not find surrogate values in India, we used values from Indonesia.

C. Factors of Production

In accordance with section 773(c) of the Act, we calculated normal value based on the factors of production which included, but were not limited to: (A) Hours of labor required; (B) quantities of raw materials employed; (C) amounts of energy and other utilities consumed; and (D) representative capital costs, including depreciation. We used the factors reported by Huanri Auto and Meita which produced the brake rotors exported to the United States by Huanri General and Meita, respectively, during the POR. To calculate normal value, we multiplied the reported unit factor quantities by publicly available Indian or Indonesian values.

Based on our verification findings at Huanri General and Huanri Auto, we found that Huanri Auto used an additional packing material (*i.e.*, tin clamps) to pack the subject merchandise for exportation and used lugs and bearing cups for one of its brake rotor models. We accounted for these items in our factors analysis. In addition, we revised the following data in Huanri General's and Huanri Auto's response: (1) The reported per-unit weight for one brake rotor model; (2) the reported per-unit factor amounts for all material, energy, and labor inputs based on revisions to the total POR production quantity figure [2] for brake rotors and per-unit weights of certain brake rotor models; (3) the per-unit factor amounts for steel strap for each brake rotor model reported in the Section D response; and (4) the distances from Huanri Auto to certain of its suppliers (*see* pages 18, 19, 22 through 25 of the Huanri General verification report and May 21, 2001, Memorandum from Case Analyst to the File).

Based on our verification findings at Meita, we found that the factory used an additional packing material (*i.e.*, clamps) to pack the subject merchandise for exportation which we accounted for in our factors analysis. We also revised the following data reported in Meita's response: (1) The per-unit factor amounts for steel strap for each brake rotor model; (2) the reported per-unit factor amounts for all four labor inputs; and (3) the distances from Meita to certain of its suppliers (*see* verification exhibit 0 and pages 18 and 20 of the Meita verification report and May 21, 2001, Memorandum from Case Analyst to the File).

In its May 2, 2001, comments, the petitioner claims that the extent and magnitude of the Department's corrections to Huanri General's data based on verification (1) constitute major corrections; (2) represent an attempt by Huanri General to reconstruct its response; (3) undermine the integrity of the company's overall response; and (4) constitute grounds for resorting to adverse facts available in this situation. After considering the totality of the corrections identified above for Huanri General and the circumstances under which those errors were made, we find that the (1) above-mentioned errors were inadvertent and common in nature; and (2) the corrections had no meaningful impact on our calculation of normal value for Huanri General.

We selected surrogate values for this review based on the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous with the POR and quoted in a foreign currency, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics*.

To value pig iron, steel and iron scrap, ferrosilicon, and ferromanganese, limestone, and lubrication oil, we used April 1998–March 1999 average import values from the Indian government publication *Monthly Statistics of the Foreign Trade of India* ("*Monthly Statistics*").

One of the brake rotor models which Huanri Auto made during the POR used lug bolts and ball bearing cups (*see* discussion above). Because we could not obtain a product-specific price from India to value lug bolts, we used a January–March 1999 product-specific import value from the Indonesian government publication *Foreign Trade Statistical Bulletin* (*see Bicycles*, 61 FR at 19040 (Comment 17)). To value ball bearing cups, we used an April 1998–December 1998 average import value from *Monthly Statistics*.

To value coking coal, we used an April 1998–August 1998 average import price from *Monthly Statistics*. We also added an amount for loading and additional transportation charges associated with delivering coal to the factory based on June 1999 Indian price data contained in the periodical *Business Line*. For firewood, we used an April 1997–March 1998 average import value from *Monthly Statistics* rather than a 1991 domestic value from the Food and Agricultural Organization of the United Nations' working paper *Wood Materials from Non-Forest Areas* (which we used in *Brake Rotors Fourth New Shipper Review*) because *Monthly Statistics* provided a more contemporaneous value for firewood. To value electricity, we used data from the Indian publications *1995 Conference of*

[2] In order to derive the per-unit consumption amount for each factor of production as reported in the Section D response, the respondent first derived a factor-specific allocation factor by dividing the total POR factor consumption over the total POR production weight. The respondent then multiplied the factor-specific allocation factor by the per-unit weight of each brake rotor model to arrive at the per-unit consumption amount for each factor on a brake rotor model-specific basis.

Indian Industries: Handbook of Statistics and *The Center for Monitoring Indian Economy* and the methodology used in two recent NME cases. (*See Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review*, 65 FR 46691, 46692 (July 31, 2000); *Manganese Metal from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 65 FR 30067, 30068 (May 10, 2000); and Preliminary Results Valuation Memorandum for further discussion.)

We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3).

To value selling, general, and administrative ("SG&A") expenses, factory overhead, and profit, we used the 1998 financial data of Jayaswals Neco Limited and the 1998–1999 financial data of Kalyani Brakes Limited and Rico Auto Industries Limited.

Where appropriate, we removed from the surrogate overhead and SG&A calculations the excise duty amount listed in the financial reports (*see Brake Rotors Investigation*, 62 FR 9164). We made certain adjustments to the ratios calculated as a result of reclassifying certain expenses contained in the financial reports. In utilizing the financial data of the Indian companies, we treated the line item labeled "stores and spares consumed" as part of factory overhead because stores and spares are not direct materials consumed in the production process. Based on publicly available information, we considered molding materials (*i.e.*, sand, bentonite, coal powder, steel pellets, lead powder, and waste oil) to be indirect materials included in the "stores and spares consumed" category of the financial statements. We based our factory overhead calculation on the cost of manufacturing. We also included interest and/or financial expenses in the SG&A calculation. In addition, we only reduced interest and financial expenses by amounts for interest income if the Indian financial report noted that the income was short-term in nature. Where a company did not distinguish interest income as a line item within total "other income," we used the ratio of interest income to total other income as reported for the Indian metals industry in the *Reserve Bank of India Bulletin* to calculate the interest income amount. For example, if an Indian company's financial statement indicated that the company had miscellaneous receipts or other income under the general category "other income," we applied a ratio (based on data contained in *Reserve Bank of India Bulletin*) to the figure for miscellaneous receipts or other income in the financial statement to determine the amount associated with short-term interest income. To avoid double-counting, we treated the line item "packing, freight, and delivery charges" as expenses to be valued separately. Specifically, to determine the packing expense, we used Huanri General's and Meita's reported packing material factors. For a further discussion of other adjustments made, *see* the Preliminary Results Valuation Memorandum.

All inputs were shipped by truck. Therefore, to value PRC inland freight, we used a November 1999 average truck freight value based on price quotes from Indian trucking companies.

In accordance with the decision of the Court of Appeals for the Federal Circuit in *Sigma Corp.* v. *United States*, 117 F.3d 1401 (1997), we revised our methodology for calculating source-to-factory surrogate freight for those material inputs that are valued based on CIF import values in the surrogate country. Therefore, on an input-specific basis, we have added to CIF surrogate values from India a surrogate freight cost using the shorter of the reported distances from (1) the closest PRC port of importation to the factory or (2) the domestic supplier to the factory.

To value corrugated cartons, plastic bags and sheet, nails, tape, and steel strap, we used April 1998–March 1999 average import values from *Monthly Statistics*. Because we could not obtain a non-aberrational and/or current price from India to value pallet wood, we used a 1998 import value from the Indonesian government publication *Foreign Trade Statistical Bulletin*. (*See Brake Rotors Fourth New Shipper Review*, which cites to Issues and Decision Memorandum from Richard W. Moreland, Deputy Assistant Secretary for Import Administration, to Bernard T. Carreau, fulfilling the duties of Assistant Secretary for Import Administration, dated May 8, 2001 (Comment 3).) We did not use the pallet wood values obtained after March 1996 from *Monthly Statistics* because they appeared aberrational relative to the overall value of the subject merchandise.

At verification, the respondents informed us that they also use tin clamps to fasten the steel straps around the brake rotors (*see* discussion above, page 22 of the Huanri General verification report, and page 18 of the Meita verification report). Therefore, to value tin clamps, we used an April 1998–February 1999 average import value from *Monthly Statistics*.

Preliminary Results of the Review

We preliminarily determine that the following margins exist for Huanri General and Meita during the period April 1, 2000, through September 30, 2000:

Manufactuer/producer/exporter	Margin percent
Shandong Laizhou Huanri Group General Co	0.00
Qingado Meita Automotive Industry Co., Ltd	0.00

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the date of publication of this notice.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held approximately 44 days after the publication of this notice. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Issues raised in the hearing will be limited to those raised in case briefs and rebuttal briefs. Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, will be due not later than 37 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this new shipper review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 90 days after the date of issuance of this notice.

Assessment Rates

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* duty assessment rates based on

the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. In order to estimate the entered value, we will subtract applicable movement expenses from the gross sales value. In accordance with 19 CFR 351.106(c)(2), we will instruct Customs to liquidate without regard to antidumping duties all entries of subject merchandise during the POR from Huanri General and Meita for which the importer-specific assessment rate is zero or *de minimis* (*i.e.*, less than 0.50 percent). For entries subject to the PRC-wide rate, Customs shall assess *ad valorem* duties at the rate established in the LTFV investigation. The Department will issue appropriate appraisement instructions directly to Customs upon completion of this review.

Cash Deposit Requirements

Upon completion of this new shipper review, for entries from Huanri General and Meita, we will require cash deposits at the rates established in the final results pursuant to 19 CFR 351.214(e) and as further described below.

The following deposit requirements will be effective upon publication of the final results of this new shipper antidumping duty administrative review for all shipments of brake rotors from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for Huanri General and Meita will be the rates established in the final results; (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC NME entity (including Concord) will continue to be 43.32 percent; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

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

This new shipper administrative review and notice are in accordance with section 751(a)(1) and (2)(B) of the Act (19 U.S.C. 1675(a)(1) and (2)(B)) and 19 CFR 351.214.

Dated: May 21, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–13406 Filed 5–25–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–845]

Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From Japan

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

ACTION: Notice of extension of time limit for the preliminary results of the antidumping duty administrative review of stainless steel sheet and strip in coils from Japan.

SUMMARY: On September 6, 2000, the Department of Commerce ("Department") published a notice of initiation of an antidumping duty review of stainless steel sheet and strip in coils from Japan. The Department of Commerce ("Department") is extending the time limit for the preliminary results of the review, which covers the period January 4, 1999 through June 30, 2000.

EFFECTIVE DATE: May 29, 2001.

FOR FURTHER INFORMATION CONTACT: Juanita H. Chen at 202–482–0409; Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("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. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Extension of Time Limit for Preliminary Results

On September 6, 2000, the Department published its notice of initiation of an antidumping duty review of the antidumping duty order on stainless steel sheet and strip in coils from Japan. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 65 FR 53980, 53981 (September 6, 2000). On January 31, 2001, the Department published its notice partially extending the time limit for the preliminary results of the review by 90 days. See Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Japan, 66 FR 8385 (January 31, 2001). Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of the preliminary results of a review if it determines that it is not practicable to complete the preliminary results within the statutory time limit of 245 days after the date on which the review is initiated. The Department has determined that it is not practicable to complete the preliminary results of the review within that statutory time limit. See Memorandum from Edward C. Yang to Joseph A. Spetrini (May 21, 2001).

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the preliminary results by 30 days until July 31, 2001.

Dated: May 21, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–13405 Filed 5–25–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–854]

Certain Tin Mill Products From Japan: Notice of Initiation of Changed Circumstances Review of the Antidumping Duty Order

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

ACTION: Notice of initiation of changed circumstances review.

SUMMARY: In accordance with 19 CFR 351.216(b), Weirton Steel and the Independent Steelworkers Union, interested parties in this proceeding, requested a changed circumstances

review pursuant to section 751(b) of the Tariff Act of 1930, as amended ("the Act"). In response to this request, the Department of Commerce is initiating a changed circumstances review on certain tin mill products from Japan.

EFFECTIVE DATE: May 29, 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.

The Applicable Statute and Regulations

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 the regulations at 19 CFR part 351 (2001).

SUPPLEMENTARY INFORMATION:

Background

On August 28, 2000, the Department published in the **Federal Register** (65 FR 52067) the antidumping duty order on certain certain tin mill products from Japan. On April 6, 2001, Weirton Steel and the Independent Steelworkers Union, petitioners in this proceeding, requested that the Department revoke in part the antidumping duty order on certain tin mill products from Japan. On May 3, 2001, petitioners submitted a change in the definition of the product for which they requested a changed circumstances review. Specifically, petitioners requested that the Department revoke the order with respect to imports of merchandise meeting the following specifications:

double reduced (CADR–8 temper) electrolytically chromium coated steel with chromium oxide at a level of 1.6 mg/sq. ft. (±0.9), having a base box weight of 60 pounds (nominal thickness of 0.0066 inch (±5% tolerance)), and a surface with a 7C stone finish, lubricated with butyl stearate oil (BSO) or dioctyl sebacate oil (DOS) with the level ranging from 0.22 to 0.32 gm/base box. The material is 31½ inches in actual width (−0/+ 1/16 inch width tolerance) and made from fully deoxidized (killed) continuous cast and continuous annealed steel that is free of detrimental non-metallic inclusions (i.e., clean steel) with earring hazard minimized. The maximum edge wave is ⅛ inch, with crossbow controllable to less than 2 inches per sheet. The maximum camber per three feet is 0.020 inch, the maximum burr is 0.001 inch, and the maximum pinholes per coil is 0.2%. The maximum coil weight is 25,000 pounds, with an interior coil diameter of 16 inches to 16½ inches, and an exterior coil diameter of 36 inches to 60 inches. When loaded for shipment, the coil is placed on the pallet with the eye of the coil standing vertical, with each side of the pallet being 60 inches having 4 x 4 runners, and outside runners placed a minimum of 37 inches apart.

Weirton Steel, a domestic producer of the subject merchandise, together with the Independent Steelworkers Union and the United Steelworkers of America, AFL–CIO, were the petitioners in the underlying sales at less-than-fair-value investigation. In their changed circumstances request, petitioners state that they have no interest in maintaining the antidumping duty order on certain tin mill products from Japan with respect to the specific merchandise identified in their request, and that they believe that none of the known producers of the subject merchandise have any interest in having the described merchandise remain within the scope of the antidumping order. However, the Department has no information on the record that the other known domestic producers of tin mill products, Bethlehem Steel Corp., National Steel Corp., Midwest Division, Ohio Coatings Co., U.S. Steel Group, a Unit of USX Corp., and USS-Posco Industries, Inc., have no interest in maintaining the antidumping duty order with respect to the specific merchandise described in Weirton's request. Therefore, we are not combining this initiation with the preliminary determination, which is our normal practice under section 351.221(c)(3)(ii).

Scope of Review

The products covered by this antidumping order are tin mill flat-rolled products that are coated or plated with tin, chromium or chromium oxides. Flat-rolled steel products coated with tin are known as tin plate. Flat-rolled steel products coated with chromium or chromium oxides are known as tin-free steel or electrolytic chromium-coated steel. The scope includes all the noted tin mill products regardless of thickness, width, form (in coils or cut sheets), coating type (electrolytic or otherwise), edge (trimmed, untrimmed or further processed, such and scroll cut), coating thickness, surface finish, temper, coating metal (tin, chromium, chromium oxide), reduction (single- or double-reduced), and whether or not coated with a plastic material.

All products that meet the written physical description are within the scope of this order unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this order:

- Single reduced electrolytically chromium coated steel with a thickness 0.238 mm (85 pound base box) (#10%) or 0.251 mm (90 pound base box) (#10%) or 0.255 mm (#10%) with 770 mm (minimum width) (#1.588 mm) by 900 mm (maximum length if sheared) sheet size or 30.6875 inches (minimum width) (#1/16 inch) and 35.4 inches (maximum length if sheared) sheet size; with type MR or higher (per ASTM) A623 steel chemistry; batch annealed at T2 ½ anneal temper, with a yield strength of 31 to 42 kpsi (214 to 290 Mpa); with a tensile strength of 43 to 58 kpsi (296 to 400 Mpa); with a chrome coating restricted to 32 to 150 mg/m²; with a chrome oxide coating restricted to 6 to 25 mg/m² with a modified 7B ground roll finish or blasted roll finish; with roughness average (Ra) 0.10 to 0.35 micrometers, measured with a stylus instrument with a stylus radius of 2 to 5 microns, a trace length of 5.6 mm, and a cut-off of 0.8 mm, and the measurement traces shall be made perpendicular to the rolling direction; with an oil level of 0.17 to 0.37 grams/base box as type BSO, or 2.5 to 5.5 mg/m² as type DOS, or 3.5 to 6.5 mg/m² as type ATBC; with electrical conductivity of static probe voltage drop of 0.46 volts drop maximum, and with electrical conductivity degradation to 0.70 volts drop maximum after stoving (heating to 400 degrees F for 100 minutes followed by a cool to room temperature).
- Single reduced electrolytically chromium- or tin-coated steel in the gauges of 0.0040 inch nominal, 0.0045 inch nominal, 0.0050 inch nominal, 0.0061 inch nominal (55 pound base box weight), 0.0066 inch nominal (60 pound base box weight), and 0.0072 inch nominal (65 pound base box weight), regardless of width, temper, finish, coating or other properties.
- Single reduced electrolytically chromium coated steel in the gauge of 0.024 inch, with widths of 27.0 inches or 31.5 inches, and with T–1 temper properties.
- Single reduced electrolytically chromium coated steel, with a chemical composition of 0.005% max carbon, 0.030% max silicon, 0.25% max manganese, 0.025% max phosphorous, 0.025% max sulfur, 0.070% max aluminum, and the balance iron, with a metallic chromium layer of 70–130 mg/m 2 , with a chromium oxide layer of 5–30 mg/m², with a tensile strength of 260–440 N/mm², with an elongation of 28–48%, with a hardness (HR–30T) of 40–58, with a surface roughness of 0.5–1.5 microns Ra, with magnetic

properties of Bm (KG) 10.0 minimum, Br (KG) 8.0 minimum, Hc (Oe) 2.5–3.8, and μ 1400 minimum, as measured with a Riken Denshi DC magnetic characteristic measuring machine, Model BHU–60.

• Bright finish tin-coated sheet with a thickness equal to or exceeding 0.0299 inch, coated to thickness of ¾ pound (0.000045 inch) and 1 pound (0.00006 inch).

• Electrolytically chromium coated steel having ultra flat shape defined as oil can maximum depth of 5/64 inch (2.0 mm) and edge wave maximum of 5/64 inch (2.0 mm) and no wave to penetrate more than 2.0 inches (51.0 mm) from the strip edge and coilset or curling requirements of average maximum of 5/64 inch (2.0 mm) (based on six readings, three across each cut edge of a 24 inches (61 cm) long sample with no single reading exceeding 4/32 inch (3.2 mm) and no more than two readings at 4/32 inch (3.2 mm)) and (for 85 pound base box item only: crossbuckle maximums of 0.001 inch (0.0025 mm) average having no reading above 0.005 inch (0.127 mm)), with a camber maximum of ¼ inch (6.3 mm) per 20 feet (6.1 meters), capable of being bent 120 degrees on a 0.002 inch radius without cracking, with a chromium coating weight of metallic chromium at 100 mg/square meter and chromium oxide of 10 mg/square meter, with a chemistry of 0.13% maximum carbon, 0.60% maximum manganese, 0.15% maximum silicon, 0.20% maximum copper, 0.04% maximum phosphorous, 0.05% maximum sulfur, and 0.20% maximum aluminum, with a surface finish of Stone Finish 7C, with a DOS-A oil at an aim level of 2 mg/square meter, with not more than 15 inclusions/foreign matter in 15 feet (4.6 meters) (with inclusions not to exceed 1/32 inch (0.8 mm) in width and 3/64 inch (1.2 mm) in length), with thickness/temper combinations of either 60 pound base box (0.0066 inch) double reduced CADR8 temper in widths of 25.00 inches, 27.00 inches, 27.50 inches, 28.00 inches, 28.25 inches, 28.50 inches, 29.50 inches, 29.75 inches, 30.25 inches, 31.00 inches, 32.75 inches, 33.75 inches, 35.75 inches, 36.25 inches, 39.00 inches, or 43.00 inches, or 85 pound base box (0.0094 inch) single reduced CAT4 temper in widths of 25.00 inches, 27.00 inches, 28.00 inches, 30.00 inches, 33.00 inches, 33.75 inches, 35.75 inches, 36.25 inches, or 43.00 inches, with width tolerance of #⅛ inch, with a thickness tolerance of #0.0005 inch, with a maximum coil weight of 20,000 pounds (9071.0 kg), with a minimum coil weight of 18,000 pounds (8164.8 kg) with a coil inside diameter of 16 inches (40.64 cm) with a steel core, with a coil maximum outside diameter of 59.5 inches (151.13 cm), with a maximum of one weld (identified with a paper flag) per coil, with a surface free of scratches, holes, and rust.

• Electrolytically tin coated steel having differential coating with 1.00 pound/base box equivalent on the heavy side, with varied coating equivalents in the lighter side (detailed below), with a continuous cast steel chemistry of type MR, with a surface finish of type 7B or 7C, with a surface passivation of 0.7 mg/square foot of chromium applied as a cathodic dichromate treatment, with coil form having restricted oil film weights of 0.3–0.4 grams/base box of type DOS-A oil, coil inside diameter ranging from 15.5 to 17 inches, coil outside diameter of a maximum 64 inches, with a maximum coil weight of 25,000 pounds, and with temper/coating/dimension combinations of : (1) CAT 4 temper, 1.00/.050 pound/base box coating, 70 pound/base box (0.0077 inch) thickness, and 33.1875 inch ordered width; or (2) CAT5 temper, 1.00/0.50 pound/base box coating, 75 pound/base box (0.0082 inch) thickness, and 34.9375 inch or 34.1875 inch ordered width; or (3) CAT5 temper, 1.00/0.50 pound/base box coating, 107 pound/base box (0.0118 inch) thickness, and 30.5625 inch or 35.5625 inch ordered width; or (4) CADR8 temper, 1.00/0.50 pound/base box coating, 85 pound/base box (0.0093 inch) thickness, and 35.5625 inch ordered width; or (5) CADR8 temper, 1.00/0.25 pound/base box coating, 60 pound/base box (0.0066 inch) thickness, and 35.9375 inch ordered width; or (6) CADR8 temper, 1.00/0.25 pound/base box coating, 70 pound/base box (0.0077 inch) thickness, and 32.9375 inch, 33.125 inch, or 35.1875 inch ordered width.

• Electrolytically tin coated steel having differential coating with 1.00 pound/base box equivalent on the heavy side, with varied coating equivalents on the lighter side (detailed below), with a continuous cast steel chemistry of type MR, with a surface finish of type 7B or 7C, with a surface passivation of 0.5 mg/square foot of chromium applied as a cathodic dichromate treatment, with ultra flat scroll cut sheet form, with CAT 5 temper with 1.00/0.10 pound/base box coating, with a lithograph logo printed in a uniform pattern on the 0.10 pound coating side with a clear protective coat, with both sides waxed to a level of 15–20 mg/216 sq. in., with ordered dimension combinations of (1) 75 pound/base box (0.0082 inch) thickness and 34.9375 inch x 31.748 inch scroll cut dimensions; or (2) 75 pound/base box (0.0082 inch) thickness and 34.1875 inch x 29.076 inch scroll cut dimensions; or (3) 107 pound/base box (0.0118 inch) thickness and 30.5625 inch x 34.125 inch scroll cut dimension.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States ("HTSUS"), under HTSUS subheadings 7210.11.0000, 7210.12.0000, 7210.50.0000, 7212.10.0000, and 7212.50.0000 if of non-alloy steel and under HTSUS subheadings 7225.99.0090, and 7226.99.0000 if of alloy steel. Although the subheadings are provided for convenience and Customs purposes, our written description of the scope of this review is dispositive.

Initiation of Changed Circumstances Review

Pursuant to section 751(d)(1) of the Act, the Department may partially revoke an antidumping or countervailing duty order based on a review under section 751(b) of the Act (i.e., a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. 19 CFR 351.222(g) provides that the Department will conduct a changed circumstances review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it determines that (i) producers accounting for substantially all of the production of the domestic like product to which the order (or the part of the order to be revoked) pertains have expressed a lack of interest in the relief provided by the order, in whole or in part; or (ii) other changed circumstances sufficient to warrant revocation exist.

The Department will publish in the **Federal Register** a notice of preliminary results of changed circumstances review, in accordance with 19 CFR 351.221(c)(3)(i), which will set forth the factual and legal conclusions upon which our preliminary results are based, and a description of any action proposed based on those results. Interested parties may submit comments for consideration in the Department's preliminary results not later than 20 days after publication of this notice. Responses to those comments may be submitted not later than 10 days following submission of the comments. All written comments must be submitted in accordance with 19 CFR 351.303, and must be served on all interested parties on the Department's service list in accordance with 19 CFR 351.303. The Department will also issue its final results of review within 270

days after the date on which the changed circumstances review is initiated, in accordance with 19 CFR 351.216(e), and will publish these results in the **Federal Register.**

While the changed circumstances review is underway, the current requirement for a cash deposit of estimated antidumping duties on all subject merchandise, including the merchandise that is the subject of this changed circumstances review, will continue unless and until it is modified pursuant to the final results of this changed circumstances review.

This notice is in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.222.

Dated: May 21, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–13404 Filed 5–25–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051801E]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of availability and request for comment.

SUMMARY: Notice is hereby given that the Washington Department of Fish and Wildlife (WDFW) has submitted a Fisheries Management and Evaluation Plan (FMEP) pursuant to the protective regulations promulgated for Lower Columbia River (LCR) chinook salmon, LCR steelhead and LCR chum salmon under the Endangered Species Act (ESA). The FMEP specifies the future management of inland recreational fisheries potentially affecting the LCR chinook salmon, LCR steelhead, and LCR chum salmon in the State of Washington. This document serves to notify the public of the availability of the FMEP for review and comment before a final approval or disapproval is made by NMFS.

DATES: Written comments on the draft FMEP must be received no later than 5 p.m. Pacific standard time on June 28, 2001.

ADDRESSES: Written comments and requests for copies of the draft FMEP should be addressed to Richard Turner, Sustainable Fisheries Division, Hatchery and Inland Fisheries Branch, 525 N.E. Oregon Street, Suite 510, Portland, OR 97232 or faxed to 503–872–2737. The documents are also available on the Internet at http://www.nwr.noaa.gov/. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Richard Turner, Portland, OR at phone number 503–736–4737 or e-mail: rich.turner@noaa.gov.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Lower Columbia River chinook salmon (*Oncorhynchus tshawytscha*), Lower Columbia River steelhead (*O. mykiss*), and Lower Columbia River chum salmon (*O. nerka*) Evolutionarily Significant Units (ESU).

Background

WDFW has submitted to NMFS an FMEP for inland recreational fisheries potentially affecting listed adults and juveniles of the LCR ESUs. These include fisheries occurring in the Washington tributaries of the Columbia River from the mouth at the Pacific Ocean upstream to the White Salmon River. The objective of the FMEP is to harvest known, hatchery-origin chinook and steelhead, natural and hatchery fall chinook and other fish species in a manner that does not jeopardize the survival and recovery of the listed LCR ESUs. All spring chinook and steelhead fisheries included in this FMEP will be managed such that only hatchery-produced adult spring chinook and steelhead that are adipose fin clipped may be retained. The tributary fisheries for fall chinook salmon will be managed to meet natural and hatchery escapements and limited by total impacts from all fisheries including those that occur in the Pacific Ocean and mainstem Columbia River. Impact levels to the listed LCR ESUs are specified in the FMEP. Risk assessments in the FMEP indicate the extinction risk for the listed ESUs under the proposed fishery impact levels to be low. A variety of monitoring and evaluation tasks are specified in the FMEP to assess the abundance of chinook salmon, steelhead and chum salmon; determine fishery effort and catch of chinook salmon and steelhead; and angler compliance. WDFW will annually conduct a review of fisheries compliance with the provisions of the FMEP. WDFW will conduct, at a minimum of every 5 years, a comprehensive review to evaluate the effectiveness of the FMEP.

As specified in July 10, 2000 ESA 4(d) rule for salmon and steelhead (65 FR 42422), NMFS may approve an FMEP if it meets criteria set forth in § 223.203 (b)(4)(i)(A) through (I). Prior to final approval of an FMEP, NMFS must publish notification announcing its availability for public review and comment.

Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule do not apply to activities associated with fishery harvest provided that an FMEP has been approved by NMFS to be in accordance with the salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000).

Dated: May 23, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–13432 Filed 5–25–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051801D]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of availability and request for comment.

SUMMARY: Notice is hereby given that the Oregon Department of Fish and Wildlife (ODFW) has submitted a Fisheries Management and Evaluation Plan (FMEP) pursuant to the protective regulations promulgated for Lower Columbia River (LCR) chinook salmon under the Endangered Species Act (ESA). The FMEP specifies the future management of inland recreational fisheries potentially affecting the LCR chinook in the State of Oregon. This document serves to notify the public of the availability of the FMEP for review and comment before a final approval or disapproval is made by NMFS.

DATES: Written comments on the draft FMEP must be received no later than 5 p.m. Pacific standard time on June 28, 2001.

ADDRESSES: Written comments and requests for copies of the draft FMEP should be addressed to Richard Turner, Sustainable Fisheries Division, Hatchery and Inland Fisheries Branch, 525 N.E. Oregon Street, Suite 510, Portland, OR 97232 or faxed to 503–872–2737. The documents are also available on the Internet at http://www.nwr.noaa.gov/. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Richard Turner, Portland, OR at phone number 503–736–4737 or e-mail: rich.turner@noaa.gov.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Lower Columbia River chinook salmon (*Oncorhynchus tshawytscha*) Evolutionarily Significant Unit (ESU).

Background

ODFW has submitted to NMFS an FMEP for inland recreational and commercial fisheries potentially affecting listed adults and juveniles of the LCR chinook salmon ESU. These include all freshwater fisheries managed under the sole jurisdiction of the State of Oregon occurring within the boundaries of the LCR chinook salmon ESU including all tributaries of the Columbia River from the mouth at the Pacific Ocean upstream to the Hood River, except for the Willamette River above Willamette Falls and spring chinook in the Clackamas River. Also included are the chinook salmon impacts in LCR mainstem recreational and commercial fisheries between the Columbia River mouth and the Hood River mouth. The objective of the fisheries is to harvest known, hatchery-origin spring chinook and natural and hatchery fall chinook and other fish species in a manner that does not jeopardize the survival and recovery of the listed LCR ESU. All spring chinook fisheries included in this FMEP will be managed such that only hatchery-produced adult spring chinook that are adipose fin clipped may be retained. The tributary fisheries for fall chinook salmon will be managed to meet natural and hatchery escapements and limited by total impacts from all fisheries including those that occur in the Pacific Ocean and mainstem Columbia River. Impact levels to the listed LCR chinook ESU are specified in the FMEP. Population viability analysis and risk assessments in the FMEP indicate the extinction risk for the listed ESU under the proposed fishery impact levels to be low. A variety of monitoring and evaluation tasks are specified in the FMEP to assess the abundance of chinook salmon, determine fishery effort and catch of chinook salmon and angler compliance. ODFW will annually conduct a review of fisheries compliance with the provisions of the FMEP. ODFW will conduct, at a minimum of every 5 years, a comprehensive review to evaluate the effectiveness of the FMEP.

As specified in the July 10, 2000, ESA 4(d) rule for salmon and steelhead (65 FR 42422), NMFS may approve an FMEP if it meets criteria set forth in § 223.203 (b)(4)(i)(A) through (I). Prior to final approval of an FMEP, NMFS must publish notification announcing its availability for public review and comment.

Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule do not apply to activities associated with fishery harvest provided that an FMEP has been approved by NMFS to be in accordance with the salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000).

Dated: May 23, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–13433 Filed 5–25–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 010410087–1131–02; I.D. 032901A]

RIN 0648–AO07

New England Fishery Management Council; Notice and Request for Sea Scallop Research Proposals

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

ACTION: Notice of solicitation for applications.

SUMMARY: NMFS issues this document to describe how you, the researcher, may submit a proposal for and be selected to perform sea scallop research projects during fishing years 2001 (March 1, 2001, through February 28, 2002) and 2002 (March 1, 2002, through February 28, 2003) funded by a 1-percent set-aside of the scallop total allowable catch (TAC) under Framework Adjustment 14 to the New England Fishery Management Council's (Council) Atlantic Sea Scallop Fishery Management Plan (FMP), and how NOAA and the Council will determine whether to select your proposal.

DATES: To be considered under this solicitation, all research proposals that would utilize the fishing year 2001 TAC set-aside must be received between May 29, 2001 and 5 p.m., EDT, on June 19, 2001 (see **ADDRESSES** section of this document). To be considered under this solicitation, all research proposals that would utilize only the fishing year 2002 TAC set-aside must be received between May 29, 2001 and 5 p.m., EST, on November 1, 2001, in the Northeast Regional Office (see **ADDRESSES** section of this document).

Postmarks indicating the proposals were mailed on these dates will not be sufficient. Facsimile applications will not be accepted. For further information related to the timeframe and procedures for submission, review, and selection of proposals to be conducted with TAC set-aside funds from the Hudson Canyon and Virginia Beach Areas, see Section A, Background, under **SUPPLEMENTARY INFORMATION** of this document.

ADDRESSES: Proposals must be submitted to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark proposals "Attention—Sea Scallop Research Proposals."

Copies of the Standard Forms for submission of research proposals may be found on the Internet in a PDF (Portable Document Format) version at *http://www.ofa.noaa.gov/grants/index.html* under the title "Grants Management Forms," or by contacting the Council office (see **FOR FURTHER INFORMATION CONTACT**)

FOR FURTHER INFORMATION CONTACT: Patricia M. Fiorelli, New England Fishery Management Council, (978) 465–0492, or Peter Christopher, NMFS,. (978) 281–9288.

SUPPLEMENTARY INFORMATION:

A. Background

The final rule implementing Framework 14 was published in the Federal Register on May 1, 2001 (66 FR 21639). Framework 14 implements a Scallop Area Access Program for the Hudson Canyon and Virginia Beach Areas (formerly referred to as the Hudson Canyon South and Virginia Beach Closed Areas, respectively). These areas have been closed since 1998. Under this areas access program, limited access sea scallop vessels would be allowed to land scallops in excess of the possession limit, or take additional trips above those provided for in the program, and use the proceeds of the excess catch or additional trips to offset the costs of the research proposals submitted in response to this notice. The Hudson Canyon and Virginia Beach Sea Scallop Access Areas were re-opened to scallop fishing upon implementation of the final rule implementing Framework 14 (May 1, 2001). Authorization to fish in the two Sea Scallop Access Areas would continue through the 2002 fishing year. Each year, the areas would remain open until one of three events triggered a closure: (a) The fishing year ends (February 28, 2002, for fishing year 2001, and February 28, 2003, for fishing year 2002); (b) the scallop landings from an area exceed the TAC and it is closed by the Regional Administrator, Northeast Region, NMFS (Regional Administrator); or (c) vessels use all authorized trips to fish for scallops within one or both of the areas. Framework 14 authorizes three trips per vessel for each area in fishing year 2001 and three trips per vessel for each area in fishing year 2002, unless modified by action taken by the Regional Administrator. NOAA, in cooperation with the Council, is soliciting proposals for sea scallop research for both the 2001 and 2002 fishing years utilizing TAC set-aside from the Hudson Canyon and Virginia Beach Areas. Vessels participating in an approved project and fishing in the Sea Scallop Access Areas would be authorized by the Regional Administrator to take additional trips into the areas and/or to land scallops in excess of the 17,000-lb (7,711.1-kg) possession limit specified for fishing year 2001 and in excess of the 18,000-lb (8,164.7-kg) possession limit for fishing year 2002.

All research proposals to be conducted with TAC set-aside funds from the Hudson Canyon and Virginia Beach Areas must be received during the submission period identified in the **DATES** section of this document. Applicants must submit one signed original and two signed copies of the completed application (including supporting information). Once the applications are received, NOAA will either seek comments from the Council through the Council's public review process, or convene a Review Team, which will include representatives from the Council and may include independent technical experts, for the purpose of reviewing proposals in closed meetings under the direction of NOAA.

The total set-aside available for research is 293,256 lb (133.0 mt), an amount of scallops that has an approximate value of $1,173,024 (with prices varying according to season and availability). The TAC set-aside for sea scallop research for the 2001 fishing year is as follows: 139,575 lb (63 mt) for the Hudson Canyon Area; and 6,238 lb (3 mt) for the Virginia Beach Area. For the 2002 fishing year, the TAC set-aside for research is: 141,428 lb (64 mt) for the Hudson Canyon Area; and 6,015 lb (3 mt) for the Virginia Beach Area.

NOAA will award a grant to successful applicants through its grant award process. The project period for sea scallop research cannot predate the current Atlantic sea scallop fishing year. The project period may not extend beyond February 28, 2003, and any portion of the 2001 fishing year TAC awarded must be caught for compensation by February 28, 2002. The actual research portion of the proposals could be conducted up through February 28, 2003, provided the compensation portion of the proposal is conducted during the fishing year from which the research TAC set-aside is being requested. Proposals to fund research that started on or after the project period began are eligible for consideration. However, if the project is not approved, any research or expenditures related to this project will be the sole responsibility of the researcher without any further compensation from the TAC set-aside funds.

NMFS may, with the concurrence of the Council, publish a second Request for Proposals for the fishing year 2002 if it is deemed necessary.

B. Authority

Issuing grants is consistent with sections 402(e), 303(b)(11), 304(e), and 404(c) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

C. Catalog of Federal Domestic Assistance

11.454, Unallied Management Projects

D. Funding Instrument and Project Period

NOAA will award a grant to successful applicants through its grant award process. The project period for sea scallop research can not predate the current Atlantic sea scallop fishing year, March 1, 2001. The project period may not extend beyond February 28, 2003. Any portion of the 2001 fishing year TAC awarded must be caught for compensation by February 28, 2002. Proposals to fund research started on or after the project period are eligible for consideration. However, if the project is not approved, any research or expenditures related to this project will be the sole responsibility of the researcher without any further compensation from the TAC set-aside funds.

E. Funding Availability

No Federal funds are provided for sea scallop research under this notice. The Federal Government's contribution to the project will be a Letter of Authorization that will provide special fishing privileges in response to sea scallop research proposals selected to participate in this program. The Federal Government shall not be liable for any costs incurred in the conduct of the project. The funds generated from the additional landings authorized in the Letter of Authorization shall be used to cover the cost of the sea scallop research, including vessel costs, and to compensate vessel owners for expenses incurred. Therefore, the owner of each fishing vessel selected to land scallops in excess of the trip limit or from additional authorized trips must use the proceeds of the sale of the excess catch to compensate the researcher for costs associated with the research activities and use of the vessel. Any additional funds above the cost of the research activities (or excess program income) shall be retained by the vessel owner as compensation for the use of his/her vessel.

F. Scope of Sea Scallop Research

Projects funded under the sea scallop TAC set-aside program should enhance understanding of the scallop resource or contribute to the body of information on which management decisions are made. Sea scallop research may be conducted in or outside of the Hudson Canyon and Virginia Beach Areas, within or outside of the Sea Scallop Area Access Program timeframe, and on board a fishing or other type of vessel. Sea scallop research conducted with these TAC set-aside funds also may or may not involve the harvest of scallops.

Funds generated from the set-aside landings shall be used to cover the cost of the research activities, including vessel costs, and to compensate boats for expenses incurred during the collection of set-aside scallops. For example, these funds could be used to pay for gear modifications, monitoring equipment, additional provisions (e.g., fuel, ice, food for scientists) or the salaries of research personnel. The Federal Government is not liable for any costs incurred by the researcher or vessel owner, should the sale of the excess catch not fully reimburse the researcher or vessel owner for their expenses.

G. Eligibility Criteria

All commercial organizations; non-profit organizations; state, local or tribal governments; institutions of higher education; and individuals are eligible to apply, provided that all proposal requirements are satisfied and the proposal is received by the date specified in this document.

Pursuant to Executive Orders 12876, 12900, and 13021, the Department of Commerce, National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions and Tribal Colleges and Universities in its educational and research programs. The DOC/NOAA vision, mission and goals are to achieve full participation by Minority Serving Institutions (MSIs) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in, and benefit from, Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

H. Proposal Requirements

Proposals must be submitted to NOAA and must identify the sea scallop research to be conducted and the Sea Scallop Access Area within which the research and/or compensation trip is to be conducted, and the total amount of scallops requested for the project, including, using a scallop meat value of $4.50 per pound, their average approximate monetary value over the last year. Additionally, each proposal must identify the requirements for the participating vessel(s) that would make a Sea Scallop Access Area trip to collect the scallop set-aside. The vessel selected by the applicant should be listed in the proposal, if possible, or specifically identified prior to final approval by NOAA. The proposal must also include the agreement between the vessel owner and researcher that shows exactly how the research activity is to be paid for, if possible, or such agreement must be provided prior to final approval by NOAA. Proposals may request that the scallop set-aside be collected separately from the sea scallop research trip or other related research trip. The separate sea scallop research compensation trips do not necessarily have to be conducted by the same vessel. The Council or NMFS contact person may provide assistance to researchers who are seeking vessels to participate in the collection of set-aside scallops or directly in research projects. The Council or NMFS may publish a list of those vessel owners willing to participate through their respective homepages.

I. Confidentiality of Information

In the event that an application contains information or data that the applicant does not want disclosed prior to award for purposes other than the evaluation of the application, the applicant should mark each page containing such information or data with the words "Privileged, Confidential, Commercial, or Financial Information - Limited Use" at the top of the page to assist NOAA in making disclosure determinations. DOC regulations implementing the Freedom of Information Act (FOIA) are found at 15 CFR part 4, "Public Information," which sets forth rules for DOC to make requested materials, information, and records publicly available under FOIA. To the extent permitted under FOIA, the contents of applications and proposals submitted by successful applicants may be released in response to FOIA requests.

J. Project Funding Priorities

Sea scallop research projects that identify and evaluate gear to reduce groundfish bycatch and habitat impacts and that provide improved information concerning scallop abundance estimates are considered high priority by the Council. Sea scallop research that involves evaluating the distribution, size composition, and density of scallops in the closed areas prior to the open periods also will be considered high priority. Other research needs (not listed in order of priority) that also will be considered by the Council and NOAA follow:

1. Evaluation of ways to control predation on scallops; Research to actively manage spat collection and seeding of sea scallops;
2. Social and economic impacts and consequences of closing areas to enhance productivity and improve yield for sea scallops and other species;
3. High resolution surveys that include distribution, recruitment, mortality and growth rate information;
4. Estimation of factors affecting fishing power for eachlimited access vessel;
5. Demonstration projects to identify ways to reducediscard mortality, increase efficiency without increasing fishing power (e.g., decreasing processing time with sorters) and improve safety;
6. Research to identify scallop habitat and ecological relationships that affect reproduction, recruitment mortality and growth, including those enhanced/impeded by area closures;
7. Quantification of fishing costs related to fishing for sea scallops in specific areas (e.g., fishing gear modification, steaming time, and opportunity cost);
9. Identification of fishermen's perceptions about area-based management and alternative strategies;
10. Processing and analyzing of data that will be collected or that have already been collected;
11. Broader investigations of variability in dredging efficiency across habitats (substrates, current velocities, etc.) times, areas, and gear designs; and
12. Research that provides more detailed sea scallop lifehistory information (especially on age-and area-specific natural mortality and growth) and to identify stock-recruitment relationships.

K. Evaluation Criteria

The Council or the Review Team convened by NOAA will evaluate proposals based on the assigned score for each of the following criteria:

1. A clear definition of the problem, need, issue or hypothesis to be addressed (10 points);
2. A clear definition of the approach to be used, including theoretical studies, laboratory analyses, and/or field work (15 points);
3. Adequate justification as to how the project is likelyto achieve its stated objectives (20 points);
4. Identification of anticipated benefits, potential users and methods of disseminating results (10 points);
5. Relevance of the project to the research needs identified by the Council (20 points);
6. Demonstration of support, cooperation and/or collaboration with the fishing industry (15 points); and
7. Cost-effectiveness of the project (10 points).

L. Selection Procedures

Applications may be reviewed and evaluated by either the Council at the request of NOAA or by the Review Team convened by NOAA. If the Council is requested to review the proposals, the proposals will be reviewed in a public meeting process by representatives of the Council based on the criteria contained in Section K of this notice. The Council's representatives would then make recommendations to the Council. The Council would consider the recommendations of its representatives, the Project Funding Priorities identified in Section J, the Evaluation Criteria identified in Section K, and may also consider the time of year the research activities are to be conducted, ability to meet requirements under Section O of this notice, and logistic concerns. The Council would then make its recommendations to the Regional Administrator. NOAA would consider the Council's recommendations, provide final approval of the projects, and authorize selected vessel(s) to exceed the possession limit, take additional trips, or be exempt from other regulations specified in the FMP through written notification to the applicant. Because NOAA will take into account time of year the research activities are to be conducted, ability to meet requirements under Section O of this notice, including evaluations of proposals through the Experimental Fishery Procedures contained in 50 CFR 600.745 and 648.12, and logistic concerns, projects may not be selected in the order recommended by the Council.

If the Council does not participate in the evaluation of the proposals, NOAA will solicit written technical evaluations based on the evaluation criteria contained in Section K of this notice from three or more private and/or public sector experts to determine the technical merit of the proposal. Following completion of the technical evaluation, NOAA will convene a Review Team whose members would evaluate the proposals using the Project Funding Priorities identified in Section J and the Evaluation Criteria identified in Section K of this notice. Based on the individual recommendations of each of the members of this Review Team, and based on program policy factors identified in this notice, NOAA will provide final approval and authorize vessels to participate in the research projects. All sea scallop research must be conducted in accordance with provisions approved by NOAA and provided in a Letter of Authorization issued by NMFS.

M. Proposal Format

Proposals should be limited to 6 pages, excluding item 5 here. The format may vary, but must include:

1. A project summary;

2. A narrative project description to include: (a) Projectgoals and objectives; (b) the relationship of the proposed project to management needs or priorities identified by the Council; (c) a statement of work (project design and management--who is responsible, expected products, participants other than applicant); and (d) a summary of the existing state of knowledge related to project and contribution and relevance of the proposed work;

3. A description of all funding sources (including revenues derived from the sale of scallops harvested under the research TAC set-aside) and funding needs. This element of the proposal must include the amount of scallop TAC set-aside requested, state which scallop closed area the research and/or compensation trip is to be conducted in, and the expected funds to be generated by the sale of those scallops; also the expected percentage of funds to be allocated to the researcher and any involved fishing vessel;

4. A budget that includes a breakdown of costs (permit costs, equipment, supplies, overhead); applicants must submit a Standard Form 424 "Application for Federal Assistance" including a detailed budget using Standard Form 424A, "Budget Information—Non-Construction Programs," Standard Form 424B, "Assurances—Non-Construction Programs," and Commerce Department Form CD-511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters: Drug Free Workplace Requirements and Lobbying." Copies of these Standard Forms may be found on the Internet in a PDF (Portable Document Format) version at *http://www.ofa.noaa.gov/grants/index.html* under the title "Grants Management Forms," or by contacting the Council office (see **FOR FURTHER INFORMATION CONTACT**); and

5. Supporting documents (resumes, cooperative researchagreements, contracts, etc.).

N. Final Reports

NOAA and the Council will require project researchers to submit an interim and/or final report describing their research project results, or other acceptable deliverable(s), in a timeframe that is specific to the type of research conducted. The format of the final report may vary, but must contain:

1. A brief summary of the final report;

2. A description of the issue/problem that was addressed;

3. A detailed description of methods of data collectionand analyses;

4. A discussion of results and any relevant conclusionspresented in a format that is understandable to a non-technical audience; this should include benefits and/or contributions to management decision-making;

5. A list of entities, firms or organizations that actually performed the work and a description of how that was accomplished; and

6. A detailed final accounting of all funds used toconduct sea scallop research, including those provided through the research set-aside. The financial information must be submitted on Office of Management and Budget Standard Form-269. Copies of this Standard Form may be found on the Internet in a PDF version at *http://www.ofa.noaa.gov/grants/index.html*under the title "Grants Management Forms", or by contacting the Council office (see **FOR FURTHER INFORMATION CONTACT**).

O. Other Requirements

Evaluations of the impacts of sea scallop research, which involve exemptions to the current fishing regulations, other than those stated in the FMP, will be made by NMFS. Vessels conducting certain types of sea scallop research requiring relief from fishery regulations may be required to obtain an Exempted Fishing Permit (EFP). To apply for an EFP, interested parties must submit an application to NMFS at least 60 days before the effective date of the EFP. Additional time could be necessary for NMFS to make determinations regarding requirements under the National Environmental Policy Act (NEPA) and other applicable laws.

P. Other Requirements of Recipients

1. Federal Policies and Procedures

Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal financial assistance awards.

2. Past Performance

Unsatisfactory performance under prior Federal awards may result in a proposal not being selected

3. Delinquent Federal Debt

A proposal submitted by an applicant who has an outstanding delinquent Federal debt is not eligible for selection until either:

i. The delinquent account is paid in full,

ii. A negotiated repayment schedule is established and at least one payment is received, or

iii. Other arrangements satisfactory to DOC are made.

4. Name Check Review

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the applicant's management, honesty, or financial integrity.

5. Primary Applicant Certifications

All primary applicants must submit a completed Form CD-511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

i. Nonprocurement Debarment and Suspension. Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

ii. Drug-free Workplace. Grantees (as defined at 15 CFR 26.605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

iii. Anti-lobbying. Persons (as defined at 15 CFR 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed here 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; and

iv. Anti-lobbying Disclosures. Any applicant who 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.

6. Lower Tier Certifications

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF-LLL, "Disclosure of Lobbying Activities." Form CD-512 is intended for the use of recipients and should not be transmitted to DOC. SF-LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

7. False Statements

A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

8. Pre-award Activities

If you incur any costs prior to receiving an award agreement signed by an authorized NOAA official, you do so solely at your own risk of these costs not being included under the award. Notwithstanding any verbal or written assurance that you may have received, pre-award costs are not allowed under the award unless the grants officer approves them in accordance with 15 CFR 14.28.

9. Future Awards

If we select your application to perform sea scallop research to be conducted with the scallop TAC set-aside, we have no obligation to provide any additional TAC set-aside obligations in connection with that award.

Classification

Prior notice and opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts (5 U.S.C. 553(a)(2)).

Because a general notice of proposed rulemaking as specified in 5 U.S.C. 533, or any other law, was not required for this action, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are not applicable.

This notice contains collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 269, 424, 424A, 424B, and SF-LLL have been approved by OMB under the respective control numbers 0348–0039, 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

This action has been determined to be not significant for purposes of Executive Order 12866.

Dated: May 23, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–13416 Filed 5–23–01; 4:15 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052201C]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene public meetings of the Standing and Special Reef Fish Scientific and Statistical Committee (SSC) on Tuesday, June 12, 2001 and the Reef Fish Advisory Panel (AP) on Wednesday, June 13, 2001.

DATES: The SSC will meet beginning at 8:30 a.m. on June 12, 2001 and will conclude by 5 p.m. The AP will meet beginning at 8:30 a.m. on June 13, 2001 and will conclude by 5 p.m.

ADDRESSES: The meetings will be held at the New Orleans Airport Hilton, 901 Airline Highway, Kenner, LA; telephone: 504–469–5000.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The SSC and AP will meet to review and comment on proposals contained in draft Reef Fish Amendment 18, which will establish a 10–year red grouper rebuilding program and address other gear and enforcement issues. The SSC and AP will also be asked to review and comment on a draft Supplemental Environmental Impact Statement (SEIS) which updates the last SEIS (published in 1993 as part of Amendment 5), reviews environmental impacts of the Amendment 18 alternatives, and identifies reef fish essential fish habitat (EFH). The issues contained in draft Reef Fish Amendment 18 and the Council's preferred alternatives are as follows:

• Longline and buoy gear endorsement (Section 6.1.1):

6.1.1.1 Establish a longline/buoy gear endorsement– [No Preferred Alternative Selected]

6.1.1.2 Transferability of endorsement– Fully transferable

6.1.1.3 Appeals board– Appeals to be handled by NMFS

• Longline and buoy gear boundary line (Section 6.1.2)– [No Preferred Alternative Selected]

• Longline and buoy gear phase–out (Section 6.1.3)– [No Preferred Alternative Selected]

• Use of powerheads when spearfishing (Section 6.2): Require a permit for the use of powerheads when reef fish fishing (both commercially and recreationally), and eliminate the regulatory exemption that allows the use of powerheads in the stressed area for harvest of sand perch, dwarf sand perch, and hogfish.

• Use of reef fish for bait (Section 7.0): Prohibit the use of all species in the reef fish management unit or parts thereof, except sand perch and dwarf sand perch, with any gear for bait. (No preferred alternative on whether to apply this provision to commercial fishing, recreational fishing, or both.)

Vessel monitoring system (Section 8.0): Require fishing vessels engaged in the bottom (reef fish) longline fishery to be equipped with an electronic vessel monitoring system (VMS), with the cost of the vessel equipment, installation, maintenance, and month-to-month communications to be paid or arranged by the owners as appropriate. NMFS will maintain and will publish in the **Federal Register** a list of type-approved units and communications protocols.

• Dormant reef fish permits (Section 9.0)– [No Preferred Alternative Selected]

• Red grouper rebuilding plan (Section 10.0):

• 10.1 Red Grouper Sustainable Fishing Parameters: Set red grouper maximum sustainable yield (MSY), fishing mortality rate at MSY (FMSY), and spawning stock biomass proxy at MSY (SSMSY) at the range of values estimated by the Reef Fish Stock Assessment Panel, MSY = 6.705 to 7.012 million pounds; FMSY = 0.223 to 0.270; SSMSY = 350.7 to 433.2 million grams female gonad weight.

10.2 Red Grouper Minimum Stock Size Threshold (MSST): Red grouper minimum stock size threshold (MSST) shall be 80% of SSMSY (280.6 to 346.6 million grams female gonad weight).

10.3 Red Grouper Maximum Fishing Mortality Threshold (MFMT): Red grouper maximum fishing mortality threshold (MFMT) shall be FMSY (0.223 to 0.270), or the F consistent with recovery to the MSY level in no more than 10 years.

10.4 Red Grouper Optimum Yield (OY): Red grouper optimum yield (OY) shall be 90% of MSY (6.035 to 6.311 million pounds).

10.5 Red Grouper Rebuilding Strategy: Adopt a 10-year red grouper rebuilding plan based on a constant catch strategy. The annual ABC during the rebuilding period is initially set at 4.3-5.2 million pounds. (This is a reduction of 21%–34% from the 1996–99 average landings of 6.6 million pounds.) This ABC range may be modified following a future stock assessment by a regulatory amendment or plan amendment.

10.6 Commercial Shallow-Water Grouper Closed Seasons– [No Preferred Alternative Selected]

10.7 Recreational Closed Seasons– [No Preferred Alternative Selected]

10.8 Commercial Grouper Trip Limits– [No Preferred Alternative Selected]

10.9 Recreational Grouper Bag Limits– [No Preferred Alternative Selected]

10.10 Closed Areas– [No Preferred Alternative Selected]

Tilefish and Deep-Water Grouper (Section 11.0): Combine tilefish and deep-water grouper into a new deep–water reef fish aggregate, and set the new deep-water reef fish quota at 1.47 million pounds (which is the average annual harvest of tilefish and deep-water grouper from 1996–99).

• Changes to the reef fish management unit (Section 12.0): Add the following species to the management unit: a. Marbled grouper (*Epinephelus inermis*) - to the shallow-water aggregate, b. Sand tilefish (*Malacanthus plumieri*)

• Modifications to the Framework Procedure for Setting Total Allowable Catch (TAC) (Section 13.0): The primary modification is to allow a species TAC and commercial-to-recreational allocation to be set for an individual species within an aggregate (such as the shallow-water grouper aggregate) that differs from the aggregate allocation, provided the aggregate allocation remains as specified. A second modification allows NMFS stock assessments to report the status of stocks in terms of biomass or biomass proxy instead of spawning potential ratio (SPR).

Although other non-emergency issues not on the agenda may come before the SSC/AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the SSC/AP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling 813–228–2815.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by June 5, 2001.

Dated: May 23, 2001.

Richard W. Surdi,

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

[FR Doc. 01–13437 Filed 5–25–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052201B]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Joint Groundfish Oversight Committee, Ad Hoc Capacity Committee and Groundfish Advisory Panel in June 2001. Recommendations from these committees will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Tuesday, June 12, 2001, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Providence Biltmore, Kennedy Plaza, Providence, RI 02903; telephone: (401) 421–0700.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION: There is a concern that fishing effort may increase in the groundfish fishery, threatening recent improvements in stock condition. The Groundfish Oversight Committee, Groundfish Advisory Panel, and Ad Hoc Capacity Committee will meet to review issues concerning latent effort and

unused days-at-sea (DAS). They will discuss four alternatives identified by the Capacity Committee in 2000, as well as an additional alternative developed by the Groundfish Plan Development Team (PDT). The joint Committees will review these alternatives, identify possible revisions, and develop recommendations on which, if any, should be included as part of Amendment 13 to the Northeast Multispecies Fishery Management Plan. The Committees may also develop additional options for addressing latent effort, and may develop a schedule for addressing this issue and adopting any suggested management measures.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: May 23, 2001.

Richard W. Surdi,

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

[FR Doc. 01–13436 Filed 5–25–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041701C]

Marine Mammals; File No. 931–1597–00

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Sam H. Ridgway, RDTE Div 3503, 49620 Beluga Rd, San Diego, California 92152–6266, has been issued a permit to take 48 species of stranded cetaceans for scientific research.

ADDRESSES: See **SUPPLEMENTARY INFORMATION**

FOR FURTHER INFORMATION CONTACT: Jill Lewandowski or Trevor Spradlin, 301/713–2289.

SUPPLEMENTARY INFORMATION: On August 29, 2000, notice was published in the **Federal Register** (65 FR 52410) that a request for a scientific research permit to take 48 species of stranded cetaceans had been submitted by the above-named individual.

The purpose of the research, as stated in the application, is to conduct audiometric and sonocular testing on 48 species of stranded cetaceans to determine their acoustic sensitivities and vestibular responses for use in assessing the potential impacts of manmade noise. Medical treatment may also be provided, at the request of the NMFS stranding network, to stranded or entrapped cetaceans. Biological samples may also be collected, upon authorization by the NMFS Regional Stranding Coordinator. Samples collected abroad may also be imported into the U.S. Research will occur in waters under the jurisdiction of the U.S. and the high seas over a 5-year period.

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.), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Documents may be reviewed in the following locations:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115-0700; phone (206)526–6150; fax (206)526–6426;

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668; phone (907)586–7221; fax (907)586–7249;

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018;

Coordinator, Pacific Area Office, NMFS, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396; phone (808)943–1221; fax (808)943–1240;

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (508)281–9250; fax (508)281–9371;

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5301; fax (727)570–5300.

Dated: May 22, 2001.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–13435 Filed 5–25–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice is issued under the authority of section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Swiss Federal Council Concerning Peaceful Uses of Nuclear Energy.

This subsequent arrangement concerns the addition of Argentina, Brazil, Bulgaria, Kazakhstan, Romania, South Africa and Ukraine to the list of countries in Annex I to the Agreed Minute to the Agreement for Cooperation. As stated in paragraph B of the Agreed Minute, countries on the list are eligible to receive retransfers of source material, uranium other than high enriched uranium, moderator material and equipment transferred under Article 7 of the Agreement. The United States has brought into force new Agreements for Cooperation in the Peaceful Uses of Nuclear Energy, under the authority of section 123 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), with Argentina, Brazil, Bulgaria, Kazahstan, Romania, South Africa and Ukraine. These seven countries have also made effective non-proliferation commitments. Accordingly, they are eligible third countries to which retransfers may be made.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement will not be

inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: May 21, 2001.

Trisha Dedik,

Director, International Policy and Analysis for Arms Control and Nonproliferation, Office of Defense Nuclear Nonproliferation.

[FR Doc. 01–13391 Filed 5–25–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration; Notice of Intent To Establish the National Nuclear Security Administration Advisory Committee (NNSA AC)

In accordance with section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), and in accordance with Title 41 of the Code of Federal Regulations, section 101–6.1015(a), this notice of intent to establish the National Nuclear Security Administration Advisory Committee. This intent is to establish follows consultation with the Committee Management Secretary of the General Services Administration, pursuant to 41 CFR Subpart 101–6.10.

The purpose of the Committee is to provide the Administrator for Nuclear Security with advice, information, and recommendations on NNSA mission performance, needs, and priorities. The Committee will provide an organized forum for the community to provide advice and input to programs concerning nonproliferation, stockpile stewardship and naval reactor issues, and their related technology, research and development.

Committee members have been identified; they were selected to ensure an appropriately-balanced membership to bring into account a diversity of viewpoints, including representatives from universities, industry, and others who may significantly contribute to the deliberations of the Committee. Advance notice of all meetings of this Committee will be published in the **Federal Register**.

The establishment of the National Nuclear Security Administration Advisory Committee has been determined to be compelled by consideration of national security, essential to the conduct of Department of Energy business, and in the public interest.

Further information regarding this Committee may be obtained from Dr. Maureen McCarthy, Chief Scientist, National Nuclear Security Administration, Washington, DC 20585, phone (202) 586–5555.

Issued in Washington, DC, May 23, 2001.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. 01–13495 Filed 5–25–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration (EIA); Department of Energy (DOE).

ACTION: Agency information collection activities: Proposed collection; comment request.

SUMMARY: The EIA is soliciting comments on the Forms EIA–911A–C, "Surveys to Assess Effects of Interruptions of Natural Gas Supplies."

DATES: Comments must be filed on or before July 30, 2001. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to William Trapmann, (EI–44), ATTN: Form EIA–911, Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Alternatively, Mr. Trapmann may be reached by telephone at 202–586–6408, by FAX at 202–586–4420 or by e-mail at william.trapmann@eia.doe.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the forms and instructions should be directed to Mr. Trapmann at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Energy Administration Act of 1974 (FEA Act) (Pub. L. No. 93–275, 15 U.S.C. 761 et seq.) and the DOE Organization Act (Pub. L. No. 95–91, 42 U.S.C. 7101 et seq.) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. To carry out this program, section 13(b) of the FEA Act (15 U.S.C. 772(b)) states that "All persons owning or operating facilities or business premises who are engaged in any phase of energy supply or major energy consumption shall make available to the (Secretary) such information and periodic reports, records, documents, and other data, relating to the purposes of this Act, * * *"

Under the authorities granted, EIA conducts mandatory surveys of companies involved in energy supply and consumption. Conducting the surveys provides EIA with information used to accurately estimate United States energy supplies. Users of EIA's information include analysts in Federal, State, and local governments, as well as analysts in energy trade associations, energy companies, the media, consultants, and other private organizations.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) of the collections under section 3507(a) of the Paperwork Reduction Act of 1995.

During the past two winters, EIA has fielded emergency surveys to collect information for addressing increasing volatility in natural gas supplies and prices. Most recently, in order to assess interactions of the natural gas and distillate energy markets during the 2000/2001 winter heating season (October–March) and to answer questions on the effects that "fuel-switching" customers (i.e., those that switch between natural gas and petroleum products) have on demand and prices, EIA needed to collect information that was not then available. To satisfy the information needs, EIA fielded the following surveys:

- Form EIA–911A, "Biweekly Gas Supplier Survey"

Form EIA–911A was used to collect information on a biweekly basis from a sample of companies that deliver natural gas regarding delivered volumes and interruptions of service for the January through March portion of the heating season. For each two-week period, data were collected on deliveries (firm, non-firm); interruptions (volumes

and hours interrupted, both firm and non-firm); and customers interrupted.

• Form EIA–911B, "Biweekly Petroleum Product Suppliers Sales Report" For the same period, EIA collected information on a biweekly basis from petroleum product suppliers regarding customers serviced; volumes (gallons) sold by product to customers with fuel-switching capabilities; total retail and wholesale volumes sold by product, and beginning and ending secondary-system inventories by product.

• Form EIA–911C, "Biweekly Natural Gas And Petroleum Customer Survey" Also, EIA collected information on a biweekly basis from energy customers with fuel-switching capabilities regarding natural gas and petroleum product deliveries; voluntary and involuntary interruptions of natural gas deliveries (volumes and hours); substitutions of petroleum products as fuel in place of natural gas; and inventories of distillate fuel oil and other petroleum fuels.

For both the 1999/2000 and 2000/2001 heating seasons, EIA needed to request OMB approval on an emergency basis to collect natural gas information. The data collected was used to respond to requests from the Secretary of Energy and Congress.

II. Current Actions

Given the need for emergency approvals for the past two heating seasons and the likelihood of recurrences of volatile natural gas supplies and prices, EIA is requesting comments on three forms for which EIA will request contingency stand-by OMB approval for use in the event of future natural gas supply or price emergencies. EIA will request approval from OMB for the three surveys through August 31, 2004, to collect data during the winter heating season (October–March) if an emergency arises (e.g., large spikes in the price of natural gas or heating oil, a Congressional request, or a severe cold spell that results in low stocks of heating fuels). EIA will request that OMB approve the forms on a stand-by basis so that EIA would be able to implement them immediately when circumstances warrant. EIA's proposal allows the public to comment on the forms in a non-emergency setting, permits OMB time to review the forms without the time constraints of an emergency request, and allows EIA to have forms in place ready to address information needs in the event of significant supply and/or price volatility.

The EIA Administrator shall determine when conditions warrant implementing one or more of the proposed forms. At that time, EIA would notify OMB of the decision and would use the form(s) if OMB did not object. The geographic area(s) (e.g, specific States, U.S. regions, etc.) to be surveyed and the frequency (e.g., biweekly, monthly, etc.) of the data being collected would be determined by the Administrator at the time of a triggering event. The EIA does not anticipate the need for these forms on a national basis and does not believe that given existing and anticipated staff and resources that the forms would be implemented on a national basis.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments.

General Issues

A. Are the proposed collections of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent to the Request for Information

A. Are the instructions and definitions clear and sufficient? If not, which instructions need clarification?

B. Can the information be submitted by the due date?

C. Reporting burden is estimated to average:

EIA–911A = 2 hours per reporting period,

EIA–911B = 1 hour per reporting period, and

EIA–911C = 2 hours per reporting period.

The estimated burden includes the total time necessary to provide the requested information. In your opinion, how accurate are the burden estimates?

D. EIA estimates that the only cost to a respondent is for the time it will take to prepare for and complete the surveys. Will a respondent incur any other start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection?

E. What additional actions could be taken to minimize the burden of these collections of information? Such actions may involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

F. Does any other Federal, State, or local agency collect similar information that would be useful for developing the accurate and independent natural gas data that would be available from the proposed survey? If so, specify the agency, the data element(s), the methods of collection, and the name and phone number of someone that EIA may contact for additional information.

As a Potential User of the Information To Be Collected

A. Is the information useful at the levels of detail to be collected?

B. For what purpose(s) would the information be used? Be specific.

C. Are there alternate sources for the information and are they useful? If so, please specify the sources and their weaknesses and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. The comments also will become a matter of public record.

Statutory Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, D.C., May 21, 2001.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration

[FR Doc. 01–13392 Filed 5–25–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC01–523–001, FERC–523]

Information Collection Submitted for Review and Request for Comments

May 22, 2001.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of submission for review by the Office of Management and Budget (OMB) and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of section 3507 of the Paperwork Reduction Act of 1995 (Public Law 104–

13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of February 1, 2001 (66 FR 8577–85–78) and has made this notation in its submission to OMB.

DATES: Comments regarding this collection of information are best assured of having their full effect if received within 30 days of this notification.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission, Desk Officer, 726 Jackson Place, NW., Washington, DC 20503. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Office of the Chief Information Officer, Attention: Mr. Michael Miller, 888 First Street NE, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 208–2425, and by e-mail at *mike.miller@ferc.fed.us.*

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. *Collection of Information:* FERC–523 "Securities Authorization".
2. *Sponsor:* Federal Energy Regulatory Commission.
3. *Control No:* OMB No. 1902–0043. The Commission is now requesting that OMB approve a three-year extension of these mandatory information collection requirements.
4. *Necessity of Collection of Information:* Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing the statutory provisions of sections 19, 20 and 204 of the Federal Power Act (FPA). Under the FPA, a public utility or licensee must obtain Commission authorization for the issuance of securities or the assumption of liabilities pursuant to the sections identified above. Public utilities or licensees are not permitted to issue securities or assume any obligations or liabilities as guarantor, indorser, or surety or otherwise in respect of any other security of another person, unless and until, they have submitted an application to the Commission who in turn, issues an order authorizing assumption of the liability or issuance of the securities. The information filed in applications to the Commission is used to determine the Commission's acceptance and/or rejection for granting authorization for either issuances of securities or assumptions of obligations or liabilities to licensees and public utilities. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR parts 20, 34, 131.43, 131.50.
5. Respondent Description: The respondent universe currently comprises on average, 90 respondents, an adjustment of 30 respondents from the Commission's initial notice.
6. Estimated Burden: 9,900 total burden hours, 90 respondents, 90 response annually (1 response per respondent), 110 hours per response (average).
7. Estimated Cost Burden to Respondents: 9,900 hours÷2,080 hours per year×$97,534 per year=$464,224.

Statutory Authority: Sections 19, 20 and 204 of the Federal Power Act (FPA), 16 U.S.C. 792–828c.

David P. Boergers,

Secretary.

[FR Doc. 01–13356 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–79–000]

ANR Pipeline Company; Notice of Site Visit

May 22, 2001.

On May 30 and 31, 2001, the staff of the Office of Energy Projects (OEP) will conduct a pre-certification site visit of ANR Pipeline Company's (ANR) Badger Pipeline Project in Racine and Kenosha Counties, Wisconsin. The project area will be inspected by automobile and on foot, as appropriate. The site visit will start each day at 8:00 am at the lobby of the Country Inns & Suites at 7011 122nd Ave., Kenosha, Wisconsin. Representatives of ANR will accompany the OEP staff.

All interested parties may attend. Those planning to attend must provide their own transportation. For additional information, contact the Commission's Office of External Affairs (202) 208–1088.

David P. Boergers,

Secretary.

[FR Doc. 01–13358 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–359–001]

Dominion Transmission, Inc.; Notice of Status Report and Request for Waiver

May 22, 2001.

Take notice that on May 15, 2001, Dominion Transmission Inc. (DTI) tendered for filing a status report reconciling actual stranded costs and surcharge recoveries under DTI's Stranded Account No. 858 tracking mechanism for the annual period ending April 30, 2001.

DTI states that the purpose of this filing is to comply with its commitment to file a report with the Commission to reconcile its surcharge collections and actual costs, as it agreed to do in its earlier March 30, 2001 filing. Further, DTI requests waiver of Section 18.2 of its GT&C of its tariff, so that it can return excess collections of $177,306, with interest, in its next annual Transportation Cost Rate Adjustment (TCRA) filing to become effective November 1, 2001 rather than through the stranded cost tracking mechanism of its tariff.

DTI states that copies of its letter of transmittal and enclosures are being mailed to its customers and to interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 30, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–13361 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–2415–002]

Entergy Services, Inc.; Notice of Filing

May 22, 2001.

Take notice that on May 11, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a compliance refund report in accordance with the Commission's letter order in Docket Nos. ER00–2415–000, ER00–2415–001, and EL00–106–000.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before June 1, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–13394 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–422–000]

Kinder Morgan Interstate Gas Transmission LLC, Notice of Tariff Filing

May 22, 2001.

Take notice that on May 17, 2001, Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing to become part of KMIGT's FERC Gas Tariff, Fourth Revised Volume No. 1–A and Fourth Revised Volume No. 1–B, the revised tariff sheets listed on Appendix A to the filing, and to be effective June 17, 2001.

KMIGT is making this housekeeping filing as an effort to clarify and correct various sections of KMIGT's FERC Gas Tariff.

KMIGT states that a copy of this filing has been served upon all of its customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–13362 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2076–000]

New York Independent System Operator; Notice of Filing

May 22, 2001.

Take notice that on May 17, 2001, the New York Independent System Operator, Inc. (NYISO), at the Direction of its independent Board of Directors, made an exigent circumstances filing to propose changes to its Market Administration and Control Area Services Tariff (Services Tariff) designed to implement automated mitigation procedures. The NYISO has requested that the Commission act on this filing in a expedited manner and that it shorten the usual period for comments. The NYISO has also requested that the Commission waive its usual 60-day notice requirement and make the filing effective no later than June 15, 2001.

The NYISO has served a copy of this filing on all parties that have executed Service Agreements under the NYISO's Open-Access Transmission Tariff or Services Tariff, on the New York State Public Service Commission, on the electric utility regulatory agencies in New Jersey and Pennsylvania and on all parties in Docket Nos. EL01–55–000 and ER01–181–000. The NYISO has also emailed a copy of this filing to all subscribers to the NYISO's Technical Information Exchange list.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 31, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(l)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–13357 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–361–000]

Northwest Pipeline Corporation; Notice of Application

May 22, 2001.

Take notice that on May 11, 2001, Northwest Pipeline Corporation (Northwest) 295 Chipeta Way, Salt Lake City, Utah 84108, filed, in Docket No. CP01–361–000, an application pursuant to Section 7(c) of the Natural Gas Act and Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations for a certificate of public convenience and necessity authorizing: (1) two taps on Northwest's mainline near Vail, Washington, (2) a 20-inch diameter 48.9-mile lateral pipeline in Thurston and Grays Harbor Counties, Washington, (3) 4700 horsepower of compression at an existing compressor station in Thurston County, (4) a delivery meter station in Grays Harbor County, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Specifically, Northwest requests authorization to construct the Grays Harbor Lateral to provide natural gas deliveries to Duke Energy Grays Harbor. LLC (Duke) for electricity generation at a planned new power plant in Grays Harbor County. Duke has executed a Rate Schedule TF–1 Transportation Agreement (Lateral Transportation Agreement), for the firm transportation of up to 161,500 Dth per day over the proposed Grays Harbor Lateral, for a primary term of 30 years.

Northwest requests approval of non-conforming provisions in its Lateral Transportation Agreement with Duke that include: giving Duke a preferential right to acquire any compression-only expansive capacity on the lateral for a period of ten years; an agreement by Northwest not to solicit expansion transportation commitments through a mainline expansion open season process for expansion capacity on the proposed delivery facilities and; a provision to adjust Duke's cost responsibility in the event that Northwest installs additional compression to provide expansion capacity for a third-party shipper. Northwest also requests any necessary waiver of Northwest's tariff provisions, specifically requesting waiver of Section 21.3 of its tariff's General Terms and Conditions to the extent necessary for the Lateral Transportation Agreement provisions to supersede the otherwise applicable tariff provision for early lump sum buyouts of a cost of service charge.

The estimated cost of the proposed lateral facilities is approximately $75.2 million with an estimated initial monthly cost-of-service charge for Duke of $1,406,692. Pursuant to the Lateral Transportation Agreement, Duke will reimburse Northwest for all actual costs associated with the proposed facilities by paying a monthly cost-of-service charge over 30 years. In recognition of Duke's facilities reimbursement obligation, the associated Rate Schedule TF–1 reservation charge for Duke's transportation on the lateral will be discounted to zero. Northwest requests a preliminary determination on non-environmental issues by November 15, 2001, and a final certificate order no later than April 15, 2002, in order to complete the project before November 2002, the date Duke estimates it will require test gas for its new plant.

Questions regarding the details of this proposed project should be directed to Mr. Gary Kotter, Manager Certificates, Northwest Pipeline Corporation, P.O. Box 58900, Salt Lake City, Utah 84158–0900 or call (801) 584–7117.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before June 12, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a

final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–13359 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–180–000; Docket No. RP01–222–000]

Before Commissioners: Curt Hébert, Jr., Chairman; William L. Massey, and Linda Breathitt San Diego Gas and Electric Company and The Los Angeles Department of Water and Power; Order Requesting Comments

Issued May 22, 2001.

In response to petitions for relief concerning high natural gas prices in California, this order requests comments on whether the Commission should reimpose the maximum rate ceiling on short-term capacity release transactions into California, and the effects of such action on the California gas market.

Background

1. On December 7, 2000, in Docket No. RP01–180–000, San Diego Gas and Electric Company (SDG&E) filed a petition for emergency relief requesting that the Commission immediately order (1) that price-caps for short-term releases of capacity for service to the California border and to points of interconnection between interstate pipelines and California local distribution companies (LDCs) be re-imposed effective immediately and kept in effect until March 31, 2001,[1] and (2) that sellers be required to state separately the transportation and commodity components of the bundled rate for sales at these points so that the cap can be enforced on these transactions.[2] Alternatively, SDG&E asserted that the cap could be enforced on such bundled sales through a mechanism that caps bundled sales at these points at 150 percent of the sum of a reported average commodity sales price plus the as billed rate for interstate transportation.

2. On February 1, 2001, the Los Angeles Department of Water and Power (LADWP) filed a petition that requests that the Commission immediately rescind the portion of Order No. 637 that removed the price cap for short-term capacity release and pipeline capacity transactions for service to the California border and to points of interconnection between interstate pipelines and California LCDs until March 31, 2001. LADWP further requests that the Commission initiate a proceeding that will allow the Commission to determine by March 31, 2001, whether the removal of the price cap on short-term transactions associated with California is warranted.

Public Notice and Interventions

Public notice of SDG&E's filing was issued on December 8, 2000. Interventions and protests were due by December 13, 2000. Public notice of LADWP's filing was issued on February 26, 2001. Interventions and protests were due by March 2, 2001. Pursuant to Rule 214 (18 CFR 385.214 (2000)), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties.

With respect to SDG&E's petition, a number of California entities, including the Public Utilities Commission of the State of California (CPUC), California local distribution companies (LDCs), municipalities, and various business concerns, filed comments in support of granting the requested relief. Comments in opposition to SDG&E's petition were filed by various parties, mainly by gas marketers. Certain other commenters such as the Indicated Shippers and the Natural Gas Supply Association (NGSA) supported reimposition of the price cap on short-term capacity release transactions but opposed any price cap on bundled sales of gas or the gas commodity. Since LADWP's request for relief is the same as SDG&E's fewer comments were filed in response to LADWP's petition. As with the SDG&E petition, California entities support the request for relief.

Discussion

SDG&E and LADWP request that the Commission re-impose the price cap for short-term releases of capacity for service to the California border and to points of interconnection between interstate pipelines and California LCDs. Their request for relief is based on the assumption that high prices of gas delivered at the California border are due, in part, to the ability of persons selling to the California market to charge above the interstate pipeline's maximum tariff rate for the release of pipeline capacity. SDG&E points to the spot price at the California border of $50 per MMBtu for November and December 2000 as evidence of significant market distortions requiring Commission action.

In response to the requests filed by SDG&E and LADWP, the Commission Staff has been analyzing the capacity release information pipelines are required to maintain pursuant to section 284.13 of the Commissions's regulations. The Commission Staff has examined capacity release information for pipelines serving California for the period from November 2000 through April 2001. The Commission Staff's analysis in the attached Appendix shows that there were very few capacity transactions release transactions into California that were above the pipelines' maximum rates. For the period November 2000 through April 2001, the pipelines' capacity release information shows that releases above the pipelines' maximum rates ranged from a high of 91,236 MMBtu/day for April 2001 to a low of 7,000 MMBtu/day in December 2000. The interstate capacity into California is approximately 7,435,000 Mcf/day [3] (an Mcf is roughly equal to an MMBtu) and the intrastate receipt capacity (takeaway capacity) is approximately 6,675,000 Mcf/day.[4] Therefore, the volume of capacity

[1] Section 284.8(i) of the Commission's regulations, as implemented by Order No. 637, states that, "[u]ntil September 30, 2002, the maximum rate ceiling does not apply to capacity release transactions of less than one year. With respect to releases of 31 days or less under paragraph (h), the requirements of paragraph (h)(2) will apply to all such releases regardless of the rate charged."

[2] On May 18, 2001, in Docket No. RM01–9–000, the Commission issued an order proposing to impose certain reporting requirements on natural gas sellers and transporters serving the California market. The proposed reporting requirements are intended to provide the Commission with the necessary information to determine what action, if any, it should take within its jurisdiction. Our order today coupled with our May 18 order continues to focus on issues related to natural gas prices in California and actions we may take to address capacity release transactions and bundled sales (i.e., the "gray market").

[3] Energy Information Administration 1999 Report on California Interstate Natural Gas Pipeline Capacity Levels. The Commission has also recently approved an additional 485,000 Mcf/day of capacity into California. See, Questar Southern Trails Pipeline Company, Docket No. CP99–163–001, et al., 92 FERC ¶ 61,110 (2000); Kern River Gas Transmission Company, Docket No. CP01–106–000, 95 FERC ¶ 61,022 (2001); and E1 Paso Natural Gas Company, Docket No. CP00–422–000, et al., 95 FERC ¶ 61, 176 (2001).

[4] See, www.cpuc.ca.gov/static/industry/gas/gas+workshop.htm. April 17, 2001 presentation of the California Energy Commission at CPUC Natural Gas Infrastructure Workshop. An analysis done by Economists Incorporated for the Interstate Natural Gas Association of America shows that the interstate takeaway capacity is 5,853,000 Mcf per day. See, "Calif. Utilities Spurned Pipeline Projects" in *The Electricity Daily* (May 18, 2001).

releases above the maximum tariff rate as compared to the interstate capacity into California ranges from a low of .09 percent for December 2000 to a high of 1.2 percent for April 2001.

In light of this information, the Commission requests comment on whether section 284.8(i), which states "[u]ntil September 30, 2002, the maximum rate ceiling does not apply to capacity release transactions of less than one year," should not apply to capacity release transactions into California, that is, the maximum rate ceiling would be reimposed on short term capacity release transactions into California prior to September 30, 2002.

As part of this inquiry, the Commission requests comment on the following questions: (1) Would reimposition of the maximum rate ceiling on short-term capacity release transactions into California have any significant effect on the price of gas at the California border; (2) Should the reimposition of the maximum rate ceiling on short-term capacity release transactions be limited to California or extended to pipelines delivering into the Western Systems Coordinating Council (WSCC) region; (3) What effect do capacity release transactions have on wholesale electric prices; (4) What would be the effect of reimposing the maximum rate ceiling on short-term capacity release transactions into California given firm shippers' ability to make bundled sales at the California border; and (5) How will reimposing the maximum rate ceiling for short-term capacity release transactions into California impact shippers' ability to obtain short-term firm capacity.

Any person interested in responding to the questions discussed above should file comments with the Commission within 20 days of the date of this order. The comments will be used in determining what further actions should be taken by the Commission in response to the petitions filed in this proceeding.

The Commission Orders

Interested persons are directed to file comments in response to the questions posed above within 20 days of the date of this order.

By the Commission.

David P. Boergers,

Secretary.

BILLING CODE 6717–01–M

APPENDIX
Transportation Release Transactions Above The Maximum Rate On Pipelines Serving California
November 2000 Through April 2001

November 2000						
Pipeline	**Releasing Shipper**	**Release Price ($/MMbtu/day)**	**Maximum Rate ($/MMbtu/day)**	**Amount Above Maximum Rate ($/MMbtu/day)**	**Transaction Count**	**Volume (MMBtu/day)**
El Paso Natural Gas Company	BHP Copper Inc.	1.4795	0.2910	1.1885	1	12,500
	Chemical Lime Company of Arizona	0.4900	0.2910	0.1990	1	2,000
	Southwest Gas Corp.	1.9726	0.2910	1.6816	1	19,300
Total					3	33,800
Kern River Gas Transmission Company					0	0
Total					0	0
Mojave Pipeline Company					0	0
Total					0	0
PG& E Gas Transmission - NW					0	0
Total					0	0
Pacific Gas Transmission Company					0	0
Total					0	0
Transwestern Pipeline Company					0	0
Total					0	0
Grand Total					3	33,800

APPENDIX
Transportation Release Transactions Above The Maximum Rate On Pipelines Serving California
November 2000 Through April 2001

December 2000						
Pipeline	**Releasing Shipper**	**Release Price ($/MMbtu/day)**	**Maximum Rate ($/MMbtu/day)**	**Amount Above Maximum Rate ($/MMbtu/day)**	**Transaction Count**	**Volume (MMBtu/day)**
El Paso Natural Gas Company	Chemical Lime Company of Arizona	0.4994	0.2910	0.2084	2	4,000
	MGI Supply, Ltd	1.0192	0.2910	0.7282	1	3,000
Total					3	7,000
Kern River Gas Transmission Company					0	0
Total					0	0
Mojave Pipeline Company					0	0
Total					0	0
PG& E Gas Transmission - NW					0	0
Total					0	0
Pacific Gas Transmission Company					0	0
Total					0	0
Transwestern Pipeline Company					0	0
Total					0	0
Grand Total					3	7,000

APPENDIX
Transportation Release Transactions Above The Maximum Rate On Pipelines Serving California
November 2000 Through April 2001

January 2001						
Pipeline	**Releasing Shipper**	**Release Price ($/MMbtu/day)**	**Maximum Rate ($/MMbtu/day)**	**Amount Above Maximum Rate ($/MMbtu/day)**	**Transaction Count**	**Volume (MMBtu/day)**
El Paso Natural Gas Company	BHP Copper Inc.	0.6904	0.2887	0.4017	1	12,500
Total					1	12,500
Kern River Gas Transmission Company					0	0
Total					0	0
Mojave Pipeline Company					0	0
Total					0	0
PG& E Gas Transmission - NW					0	0
Total					0	0
Pacific Gas Transmission Company					0	0
Total					0	0
Transwestern Pipeline Company	Southern California Gas Company	1.0015	0.4006	0.6009	2	5,762
	Southern California Gas Company	0.7011	0.4006	0.3005	1	2,004
Total					3	7,766
Grand Total					4	20,266

APPENDIX
Transportation Release Transactions Above The Maximum Rate On Pipelines Serving California
November 2000 Through April 2001

February 2001						
Pipeline	Releasing Shipper	Release Price ($/MMbtu/day)	Maximum Rate ($/MMbtu/day)	Amount Above Maximum Rate ($/MMbtu/day)	Transaction Count	Volume (MMBtu/day)
El Paso Natural Gas Company	BHP Copper Inc.	0.5096	0.2887	0.2209	1	12,500
	Southern California Gas Company	0.7189	0.3594	0.3595	2	6,769
Total					3	19,269
Kern River Gas Transmission Company					0	0
Total					0	0
Mojave Pipeline Company					0	0
Total					0	0
PG& E Gas Transmission - NW					0	0
Total					0	0
Pacific Gas Transmission Company					0	0
Total					0	0
Transwestern Pipeline Company					0	0
Total					0	0
Grand Total					3	19,269

APPENDIX
Transportation Release Transactions Above The Maximum Rate On Pipelines Serving California
November 2000 Through April 2001

March 2001						
Pipeline	Releasing Shipper	Release Price ($/MMbtu/day)	Maximum Rate ($/MMbtu/day)	Amount Above Maximum Rate ($/MMbtu/day)	Transaction Count	Volume (MMBtu/day)
El Paso Natural Gas Company	Chemical Lime Company of Arizona	0.3058	0.2899	0.0159	2	3,600
	Southwest Gas Corp.	0.9863	0.2970	0.6893	1	10,000
	Southwest Gas Corp.	1.9989	0.2970	1.7019	1	20,460
	Southwest Gas Corp.	1.8740	0.2970	1.5770	1	506
Total					5	34,566
Kern River Gas Transmission Company					0	0
Total					0	0
Mojave Pipeline Company					0	0
Total					0	0
PG& E Gas Transmission - NW					0	0
Total					0	0
Pacific Gas Transmission Company	Barrett Resources Corporation	0.1649	0.1601	0.0048	4	7,409
	Barrett Resources Corporation	0.2703	0.2624	0.0079	3	6,039
	CXY Energy Marketing (U.S.A.) Inc.	1.4974	0.1601	1.3373	4	7,409
	CXY Energy Marketing (U.S.A.) Inc.	2.4533	0.2624	2.1909	3	6,039
Total					14	26,896
Transwestern Pipeline Company					0	0
Total					0	0
Grand Total					19	61,462

APPENDIX
Transportation Release Transactions Above The Maximum Rate On Pipelines Serving California
November 2000 Through April 2001

April 2001						
Pipeline	Releasing Shipper	Release Price ($/MMbtu/day)	Maximum Rate ($/MMbtu/day)	Amount Above Maximum Rate ($/MMbtu/day)	Transaction Count	Volume (MMBtu/day)
El Paso Natural Gas Company	Chemical Lime Company of Arizona	0.3058	0.2899	0.0159	1	1,800
	Southwest Gas Corp.	1.9989	0.2970	1.7019	2	24,460
	Southwest Gas Corp.	3.5671	0.2970	3.2701	1	37,000
	Southwest Gas Corp.	4.0767	0.2970	3.7797	2	440
	Southern California Gas Company	0.3630	0.3594	0.0036	24	8,545
	Southern California Gas Company	3.5907	0.3594	3.2313	8	11,668
Total					38	83,913
Kern River Gas Transmission Company					0	0
Total					0	0
Mojave Pipeline Company					0	0
Total					0	0
PG& E Gas Transmission - NW					0	0
Total					0	0
Pacific Gas Transmission Company	PG& E Gas Procurement	1.9679	0.2624	1.7055	1	7,323
Total					1	7,323
Transwestern Pipeline Company					0	0
Total					0	0
Grand Total					39	91,236

[FR Doc. 01-13351 Filed 5-25-01; 8:45 am]
BILLING CODE 6717-01-C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP01–333–001 and RP01–380–001]

Tuscarora Gas Transmission Company; Notice of Change in Gas Tariff

May 22, 2001.

Take notice that on May 16, 2001, Tuscarora Gas Transmission Company (Tuscarora) tendered for filing for as part of its FERC Gas Tariff, Original Volume No. 1, the following substitute tariff sheets, to become effective May 18, 2001:

Sub Second Revised Sheet No. 66
Sub Original Sheet No. 66A

Tuscarora states that the purpose of this filing is to incorporate into its currently effective tariff certain tariff provisions previously accepted by the Commission but inadvertently superseded by a subsequent, unrelated tariff filing.

Tuscarora states that copies of its filing have been mailed to all parties listed on the official service listed prepared by the Secretary in these proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–13360 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01–23–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

May 22, 2001.

Take notice that on May 17, 2001, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet to become effective May 17, 2001:

Fifth Revised Sheet No. 374

Williston Basin states that it has revised the above-referenced tariff sheet found in Section 48 of the General Terms and Conditions of its Tariff, to rename a receipt point associated with its Pooling Service. Point ID No. 03376 is being renamed from (WRG—Madden) to (TBI—Wind River). Such name change has no effect on Williston Basin's Pooling Service, but is being made simply to reflect a change in name to clearly identify the receipt point.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–13363 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–214–000, et al.]

Desert Power, L.P., et al.; Electric Rate and Corporate Regulation Filings

May 21, 2001.

Take notice that the following filings have been made with the Commission:

1. Desert Power, L.P.

[Docket No. EG01–214–000]

Take notice that on May 17, 2001, Desert Power, L.P.(Applicant), a limited partnership with its principal place of business at 5847 San Felipe, Suite 2900, Houston, TX 77057, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant proposes to construct, own and operate a natural gas-fired power plant with a nameplate rating of 80 MW in Rowley, Tooele County, Utah. The proposed power plant is projected to commence commercial operation on or about July 1, 2001. All output from the plant will be sold by Applicant exclusively at wholesale.

Comment date: June 11, 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.

2. Deseret Generation & Transmission Co-operative

[Docket No. ER01–2057–000]

Take notice that on May 16, 2001, Deseret Generation & Transmission Co-operative tendered for filing an informational filing in compliance with its rate schedules. The filing sets forth the revised approved costs for member-owned generation resources and the revised approved reimbursements under its Resource Integration Agreements with two of its members, Garkane Power Association, Inc., and Moon Lake Electric Association, Inc. A copy of this filing has been served upon all of Deseret's members.

Comment date: June 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Sierra Pacific Power Company, Nevada Power Company

[Docket No. ER01–1527–001, and ER01–1529–001]

Take notice that on May 15, 2001, Sierra Pacific Power Company (SPPC)

and Nevada Power Company (NPC) tendered for filing revised tariff sheets as required by Ordering Paragraph (B) of the Commission's May 11, 2001 Order in the above noted dockets.

Comment date: June 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Consumers Energy Company

[Docket Nos. ER92–331–008, and ER92–332–008]

Take notice that on May 16, 2001, Consumers Energy Company (Consumers) tendered for filing the following substitute tariff sheets as part of its FERC Electric Tariff No. 5 in compliance with the April 16, 2001 order, and previous orders, issued in these proceedings:

Sub Original Sheet Nos. 2.00, 10.00, 11.00 and 12.00.

The first sheet listed is to have an effective date of June 21,1993. The remaining three sheets are to have an effective date of May 2, 1992. Copies of these sheets were served upon the Michigan Public Service Commission and upon those on the official service lists in these proceeding.

Comment date: June 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Pilot Power Group, Inc.

[Docket No. ER01–1699–001]

Take notice that on May 14, 2001, Pilot Power Group, Inc. (Pilot) tendered for filing for acceptance of Pilot Rate Schedule FERC No. 1 (the Rate Schedule); the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations. In its Petition, Pilot also requested that the Commission grant blanket authority for retail end-use customers of Pilot to sell to Pilot excess electricity not required for delivery to said customers at market-based rates pursuant to the Rate Schedule, and grant waiver of certain Commission regulations.

By letter order dated April 30, 2001, the Commission granted Pilot's petition, conditioned upon Pilot re-filing with the Commission its Rate Schedule with the proper designations, within 30 days of the order. On May 10, 2001, Pilot filed with the Commission its Rate Schedule amended to include the proper designations.

Comment date: June 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Arizona Public Service Company

[Docket No. ER01–2055–000]

Take notice that on May 16, 2001, Arizona Public Service Company (APS) tendered for filing an Interconnection and Operating Agreement with Pinnacle West Energy under APS' Open Access Transmission Tariff.

A copy of this filing has been served on Pinnacle West Energy and the Arizona Corporation Commission.

Comment date: June 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Avista Corporation

[Docket No. ER01–2056–000]

Take notice that on May 16, 2001, Avista Corporation tendered for filing a Service Agreement assigned Rate Schedule FERC No. 65, previously filed with the Federal Energy Regulatory Commission by Avista Corporation, formerly known as The Washington Water Power Company, under the Commission's Docket No. ER95–806–000 with Dynegy Power Marketing, Inc., formerly dba Electric Clearinghouse, Inc., is to be terminated, effective May 7, 2001 by the request of Dynegy Power Marketing, Inc., per its letter dated April 30, 2001. Notice of the cancellation has been served upon the following:

Comment date: June 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Entrust Energy, L.L.C.

[Docket No. ER01–2059–000]

Take notice that on May 16, 2001, Entrust Energy, L.L.C. (EEPM) tendered for filing to the Commission for acceptance of Entrust Energy Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Entrust Energy intends to engage in wholesale electric power and energy purchases and sales as a marketer. Entrust Energy is not in the business of generating or transmitting electric power. Entrust Energy is a Limited Liability Company.

Comment date: June 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–13350 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2310–113]

Pacific Gas & Electric Company; Notice of Availability of Environmental Assessment

May 23, 2001.

An environmental assessment (EA) is available for public review. The EA was prepared for Pacific Gas & Electric's (licensee) application for the Drum-Spaulding Project to lower the spillway of the Rock Creek Dam by 2.5 feet to accommodate a Probable Maximum Flood event of 2,200 cubic feet per second.

In summary, the EA examines the environmental impacts of: (1) licensee's proposed action: lowering the Rock Creek Dam spillway 2.5 feet; and (2) no-action. These alternatives are described in detail in the EA.

The EA concludes that the licensee's proposal to lower the Rock Creek Dam spillway 2.5 feet is the preferred alternative. The EA concludes that implementation of this alternative would not constitute a major federal action significantly affecting the quality of the human environment.

This EA was written by staff in the Office of Energy Projects (OEP). Copies of the EA can be obtained by contacting

the Commission's Public Reference Room at (202) 208–1371.

David P. Boergers,
Secretary.
[FR Doc. 01–13393 Filed 5–25–01; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 22, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11949–000.

c. *Date Filed:* April 11, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Gibson Dam Hydroelectric Project.

f. *Location:* The proposed project would be located on an existing dam owned by the Bureau of Reclamation, on the North Fork of the Sun River in Teton County, Montana. Part of the project would be on lands administered by the Bureau of Reclamation.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, (fax) (208) 745–7909, or e-mail address: npsihydro@aol.com.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: lynn.miles@ferc.fed.us.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, recommendations, interventions, and protests, may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* (1) An existing concrete dam 196 feet high and 960 feet long; (2) an existing reservoir having a surface area of 1,420 acres with a storage capacity of 99,100 acre-feet at an normal water surface elevation of 4,724 feet; (3) a 15-foot diameter 300 foot-long steel penstock; (4) a powerhouse containing tow 3.75 MW generating units with a capacity of 7.5 megawatts; (5) a 15 kv transmission line approximately 5 miles long; and (6) appurtenant facilities.

The project would have an annual generation of 65.7GWh.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–13352 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 22, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 11950–000.

c. *Date Filed:* April 11, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Deadwood Dame Hydroelectric Project.

f. *Location:* The proposed project would be located on an existing dam owned by the Bureau of Reclamation, on the Deadwood River in Valley County, Idaho. Part of the project would be on lands administered by the Bureau of Reclamation.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, (fax) (208) 745–7909, or e-mail address: npsihydro@aol.com.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: lynn.miles@ferc.fed.us.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, recommendations, interventions, and protests, may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* (1) An existing concrete dam 147 feet high and 749 feet long; (2) an existing reservoirs having a surface area of 3,800 acres with a storage capacity of 162,000 acre-feet at an normal water surface elevation of 5,334 feet; (3) a 10-foot diameter 300 foot-long steel penstock; (4) a powerhouse containing one 2.6 MW generating unit; (5) a 15 kv transmission line approximately 10 miles long; and (6) appurtenant facilities.

The project would have an annual generation of 25 GWh.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and

Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–13353 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for filing and Soliciting Comments, Motions To Intervene, and Protests

May 22, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 11960–000.

c. *Date Filed:* April 17, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Yellowtail Afterbay Dam Hydroelectric Project.

f. *Location:* The proposed project would be located 2.2 miles downstream of the Yellowtail Dam on the Bighorn River, in Big Horn County, Montana. The project would be located on an existing federally owned dam administered by the U.S. Bureau of Reclamation.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, (fax) (208) 745–7909, or e-mail address: *npsihydro@aol.com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: *lynn.miles@ferc.fed.us.*

j. *Deadline for filing motions to intervene, protests and comments:* July 30, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments recommendation, interventions, and protests, may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

The Commission's Rules of Practice and Procedure require all intervenes filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* (1) An existing concrete gravity dam 72 feet high and 1,360 feet long; (2) a reservoir having a surface area of 180 acres with a storage capacity of 3,140 acre-feet at an normal water surface elevation of 3,192 feet; (3) two 8-foot by 300 foot-long steel penstock liners; (4) a concrete powerhouse containing two generating units with a project capacity of 10 megawatts; (5) a 15 kv transmission line approximately ½ mile long; and (6) appurtenant facilities.

The project would have an annual generation of 43.8 GWh.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (Call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, or before a specified comment date for the particular application, either a competing development application or a notice of intent file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions or Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 285.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original

and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–13354 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 22, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12008–000.

c. *Date filed:* April 26, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name and Location of Project:* The Tuttle Creek Dam Hydroelectric Project would utilize the U.S. Army Corps of Engineers' existing Tuttle Creek Dam on the Big Blue River in Riley County, Kansas.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Mr. Brent L. Smith, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

h. *FERC Contact:* James Hunter, (202) 219–2839.

i. *Deadline for filing motions to intervene, protests, and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Motions to intervene, protests, and comments may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Please include the project number (P–12008–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project, using the existing Tuttle Creek Dam and Reservoir, would consist of: (1) A 50-foot-long, 20-foot-diameter steel penstock; (2) a powerhouse containing two 6.5-megawatt generating units; (3) a one-mile-long, 25-kV transmission line; and (4) appurtenant facilities. The project would have an average annual generation of 51 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an applicant may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original

and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–13355 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11933–000.

c. *Date filed:* March 30, 2001, supplemented May 9, 2001.

d. *Applicant:* Bliss-Gooding Highway Hydropower, Inc.

e. *Name and Location of Project:* The Bliss-Gooding Highway Hydropower Project would be located on the Malad River in Gooding County, Idaho. The project would not affect Federal or Tribal land.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Mr. Silvio Coletti, Bliss-Gooding Highway Hydropower, Inc., 2727 South Merimac Place, Boise, ID 83709, (208) 562–1527.

h. *FERC Contact:* James Hunter, (202) 219–2839.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests, and motions to intervene may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Please include the project number (P–11933–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, it an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would consist of: (1) a 35-foot-high concrete dam; (2) a reservoir with a 75-acre surface area at normal elevation 3,420 feet; (3) an 800-foot-long, 10-foot-wide concrete canal; (4) an 800-foot-long, 5-foot-diameter steel penstock; (5) a powerhouse containing two 245-kilowatt generating units; (6) a tailrace returning flows to the Malad River at elevation 3,390 feet; (7) a one-quarter-mile-long, 600-volt transmission line; and (8) appurtenant facilities.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. Preliminary Permit—Any desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specific comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of the particular application to which the filing refers.

Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be serve upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Application. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–13364 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

May 22, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.* 11936–000.

c. *Date filed:* March 30, 2001, supplemented May 9, 2001.

d. *Applicant:* Lincoln Bypass Hydropower, Inc.

e. *Name and Location of Project:* The Lincoln Bypass Hydropower Project would be located on the Lincoln Bypass Canal in Lincoln County, Idaho. The project would not affect Federal or Tribal land.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Mr. Silvio Coletti, Bliss-Gooding Highway Hydropower, Inc., 2727 South Merimac Place, Boise, ID 83709, (208) 562–1527.

h. *FERC Contact:* James Hunter, (202) 219–2839.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests, and motions to intervene may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Please include the project number (P–11936–000) on any comments or motions filed. The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would reroute the Lincoln Bypass Canal upstream of its intersection with the Shoshone Canal and would consist of: (1) A concrete diversion dam with a top elevation of 4,495 feet; (2) a 3,500-foot-long, 20-foot-wide concrete canal; (3) a 3,000-foot-long, 6-foot-diameter steel penstock; (4) a powerhouse containing three 1,031-kilowatt generating units; (5) a tailrace returning flows to the Shoshone Canal at elevation 4,355 feet; (6) a two-mile-long, 138-kV transmission line; and (7) appurtenant facilities.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208-1371. The application may be viewed on http://www.ferc.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. the term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the result of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF THE

INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–13365 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Applications Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

May 22, 2001.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Applications:* Preliminary Permit.

b. *Project Nos.:* 11944–000 and 11951.

c. *Dates filed:* April 9 and April 11, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Names and Locations of Projects:* The Jackson Lake Dam Project would be located on the South Fork of the Snake River in Teton County, Wyoming on a federally owned dam administered by the U.S. Bureau of Reclamation. The Upper Sunshine Dam Project would be located on Sunshine Creek in Park County, Wyoming and would be partially on lands administered by the Greybull Valley Irrigation District.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, fax (208) 745–7909.

h. *FERC Contact:* Tom Papsidero, (202) 219–2715.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Motions to intervene, protests, and comments may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Please include the project numbers (P–11944–000 and/or P–11951–000) on any comments or motions filed. The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Projects:* The proposed Jackson Lake Dam Project would use the existing Bureau of Reclamation Jackson Lake Dam impoundment which has a storage capacity of 847,000 acre-feet and would consist of: (1) a powerhouse with a total installed capacity of 4 megawatts; (2) a 200-foot-long, 12-foot-diameter penstock; (3) a 1-mile-long, 15 kv transmission line; and (4) appurtenant facilities. The project would have an average annual generation of 17.5 GWh. The Upper Sunshine Dam Project would use the existing dam owned by Greybull Valley Irrigation District which has a storage capacity of 52,980 acre-feet and would consist of: (1) A powerhouse containing two 2.7MW units with a total installed capacity of 5.4 megawatts; (2) a 300-foot-long, 12-foot-diameter penstock; (3) a 2-mile-long, 15 kv transmission line; and (4) appurtenant facilities. The project would have an average annual generation of 9.7 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–13366 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

May 23, 2001.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: May 30, 2001, 10 A.M.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, Telephone (202) 208–0400, for a recording listing items, stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

767th—Meeting May 30, 2001, Regular Meeting 10 a.m.

Consent Agenda—Markets, Tariffs and Rates—Electric

CAE–1.
DOCKET# ER01–1695, 000, CAMBRIDGE ELECTRIC LIGHT COMPANY
OTHER#S ER01–1705, 000, BOSTON EDISON COMPANY
ER01–1782, 000, COMMONWEALTH ELECTRIC COMPANY

CAE–2.
DOCKET# ER01–1763, 000, DUKE ELECTRIC TRANSMISSION

CAE–3.
DOCKET# ER01–1737, 000, TRIGEN-SYRACUSE ENERGY CORPORATION

CAE–4.
DOCKET# ER01–1720, 000, ENTERGY SERVICES, INC.

CAE–5.
DOCKET# ER01–1965, 000, COMMONWEALTH EDISON COMPANY

CAE–6.
DOCKET# ER01–1698, 000, SOUTHERN COMPANY SERVICES, INC.
OTHER#S ER01–1698, 001, SOUTHERN COMPANY SERVICES, INC.

CAE–7.
DOCKET# ER01–1577, 000, AMERICAN TRANSMISSION COMPANY LLC
OTHER#S ER01–677, 000, AMERICAN TRANSMISSION COMPANY LLC
ER01–1577, 001, AMERICAN TRANSMISSION COMPANY LLC

CAE–8.
DOCKET# ER01–1850, 000, DAYTON POWER & LIGHT COMPANY

CAE–9.
DOCKET# ER01–1589, 000, NEVADA POWER COMPANY

CAE–10.
DOCKET# RT01–2, 000, PJM INTERCONNECTION, L.L.C., ALLEGHENY ELECTRIC COOPERATIVE, INC., ATLANTIC CITY ELECTRIC COMPANY, BALTIMORE GAS & ELECTRIC COMPANY, DELMARVA POWER & LIGHT COMPANY, JERSEY CENTRAL POWER & LIGHT COMPANY, METROPOLITAN EDISON COMPANY, PEPCO ENERGY COMPANY, PENNSYLVANIA ELECTRIC COMPANY, PPL ELECTRIC UTILITIES CORPORATION, POTOMAC ELECTRIC POWER COMPANY, PUBLIC SERVICE ELECTRIC & GAS COMPANY AND UGI UTILITIES INC.

CAE–11.
DOCKET# ER01–1663, 000, SIERRA SOUTHWEST COOPERATIVE SERVICES, INC.
OTHER#S NJ01–3, 000, SOUTHWEST TRANSMISSION COOPERATIVE, INC.
NJ01–3, 001, SOUTHWEST TRANSMISSION COOPERATIVE, INC.
EL01–62, 000, SIERRA SOUTHWEST COOPERATIVE, SERVICES, INC.
EL01–62, 001, SIERRA SOUTHWEST COOPERATIVE, SERVICES, INC.
ER01–1663, 001, SIERRA SOUTHWEST COOPERATIVE SERVICES, INC.

CAE–12.
DOCKET# RT01–98, 000, PJM INTERCONNECTION, L.L.C. AND ALLEGHENY POWER
OTHER#S RT01–10, 000, ALLEGHENY POWER

CAE–13.
DOCKET# RT01–86, 000, BANGOR HYDRO-ELECTRIC COMPANY, CENTRAL MAINE POWER COMPANY, NATIONAL GRID USA, NORTHEAST UTILITIES SERVICE COMPANY, THE UNITED ILLUMINATING COMPANY, VERMONT ELECTRIC POWER COMPANY AND ISO NEW ENGLAND INC.
OTHER#S RT01–94, 000, NSTAR SERVICES COMPANY
RT01–95, 000, NEW YORK INDEPENDENT SYSTEM OPERATOR, INC., CENTRAL HUDSON GAS & ELECTRIC COMPANY, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NIAGARA MOHAWK POWER CORPORATION, ORANGE & ROCKLAND UTILITIES, INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION

CAE–14.
DOCKET# ER00–3668, 001, COMMONWEALTH EDISON COMPANY

CAE–15.
DOCKET# EC00–27, 003, UTILICORP UNITED INC. AND ST JOSEPH LIGHT & POWER COMPANY

CAE–16.
DOCKET# ER97–1523 062, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., LONG ISLAND LIGHTING COMPANY, NEW YORK STATE ELECTRIC AND GAS CORPORATION,

NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES, INC., ROCHESTER GAS AND ELECTRIC CORPORATION AND NEW YORK POWER POOL
OTHER#S OA97–470, 057, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., LONG ISLAND LIGHTING COMPANY, NEW YORK STATE ELECTRIC AND GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES, INC., ROCHESTER GAS AND ELECTRIC CORPORATION AND NEW YORK POWER POOL
ER97–4234, 055, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., LONG ISLAND LIGHTING COMPANY, NEW YORK STATE ELECTRIC AND GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES, INC., ROCHESTER GAS AND ELECTRIC CORPORATION AND NEW YORK POWER POOL

CAE–17.
OMITTED

CAE–18.
DOCKET# EL99–50, 001, FRESNO IRRIGATION DISTRICT
OTHER#S ER99–3713, 001, PACIFIC GAS AND ELECTRIC COMPANY

CAE–19.
DOCKET# ER99–4193, 001, NEW ENGLAND POWER POOL

CAE–20.
DOCKET# EC99–98, 001, NIAGARA MOHAWK POWER CORPORATION, NEW YORK STATE ELECTRIC & GAS CORPORATION AND AMERGEN ENERGY COMPANY, LLC
OTHER#S ER99–3804, 001, NIAGARA MOHAWK POWER CORPORATION, NEW YORK STATE ELECTRIC & GAS CORPORATION AND AMERGEN ENERGY COMPANY, LLC

CAE–21.
DOCKET# ER00–2268, 002, PINNACLE WEST CAPITAL CORPORATION, ARIZONA PUBLIC SERVICE COMPANY AND APS ENERGY SERVICES, INC.

CAE–22.
OMITTED

CAE–23.
DOCKET# ER00–3312, 001, PINNACLE WEST ENERGY CORPORATION

CAE–24. DOCKET# ER00–3152, 002, CMS MARKETING, SERVICES AND TRADING COMPANY

CAE–25.
DOCKET# ER00–3251, 003, EXELON GENERATION COMPANY, L.L.C.
OTHER#S ER97–3954, 014, UNICOM POWER MARKETING, INC.
ER98–380, 014, HORIZON ENERGY COMPANY
ER98–1734, 004, COMMONWEALTH EDISON COMPANY
ER99–754, 006, AMERGEN ENERGY COMPANY, L.L.C.
ER99–1872, 004, PECO ENERGY COMPANY
ER00–1030, 003, AMERGEN VERMONT, L.L.C.
ER00–2429, 004, UNICOM ENERGY, INC.

CAE–26.
DOCKET# ER01–180, 002, NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.

CAE–27.
DOCKET# ER00–2211, 001, GREAT BAY POWER CORPORATION

CAE–28.
DOCKET# ER00–3513, 002, PJM INTERCONNECTION, L.L.C.
OTHER#S EL99–86, 001, NEW YORK STATE ELECTRIC & GAS CORPORATION
EL00–113, 001, DUNKIRK POWER, LLC, HUNTLEY POWER, LLC AND OSWEGO HARBOR, LLC

CAE–29.
DOCKET# RT01–67, 002, GRIDFLORIDA LLC, FLORIDA POWER & LIGHT COMPANY, FLORIDA POWER CORPORATION AND TAMPA ELECTRIC COMPANY

CAE–30.
DOCKET# OA97–140, 003, SEMINOLE ELECTRIC COOPERATIVE, INC.

CAE–31. DOCKET# EL01–41, 000, STRATEGIC ENERGY L.L.C. V. CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

CAE–32.
DOCKET# EL01–63, 000, PJM INTERCONNECTION, L.L.C.

CAE–33.
DOCKET# EG01–43, 000, PPL MONTOUR, LLC

CAE–34.
OMITTED

CAE–35.
DOCKET# EL98–46, 003, LAGUNA IRRIGATION DISTRICT
OTHER#S ER99–3145, 001, PACIFIC GAS AND ELECTRIC COMPANY

CAE–36.
DOCKET# ER01–1671, 000, PJM INTERCONNECTION, L.L.C.

CAE–37. DOCKET# RT01–74, 001, CAROLINA POWER & LIGHT COMPANY, DUKE ENERGY CORPORATION, SOUTH CAROLINA ELECTRIC & GAS COMPANY AND GRIDSOUTH TRANSCO, LLC

CAE–38.
DOCKET# EL97–19, 000, VILLAGE OF BELMONT, CITY OF JUNEAU, CITY OF PLYMOUTH, CITY OF REEDSBURG, CITY OF OF SHEBOYGAN FALLS, CITY OF WISCONSIN RAPIDS, WISCONSIN, ADAMS-COLUMBIA ELECTRIC COOPERATIVE, CENTRAL WISCONSIN ELECTRIC COOPERATIVE AND THE ROCK COUNTY ELECTRIC COOPERATIVE V. WISCONSIN POWER & LIGHT COMPANY
OTHER#S SC97–3, 000, VILLAGE OF BELMONT, CITY OF JUNEAU, CITY PLYMOUTH, CITY OF REEDSBURG, CITY OF OF SHEBOYGAN FALLS, CITY OF WISCONSIN RAPIDS, WISCONSIN, ADAMS-COLUMBIA ELECTRIC COOPERATIVE, CENTRAL WISCONSIN ELECTRIC COOPERATIVE AND THE ROCK COUNTY ELECTRIC COOPERATIVE V. WISCONSIN POWER & LIGHT COMPANY

Consent Agenda—Markets, Tariffs and Rates—Gas

CAG–1.
OMITTED

CAG–2.
DOCKET# RP96–389, 023, COLUMBIA GULF TRANSMISSION COMPANY

CAG–3.
DOCKET# RP01–405, 000, NATURAL GAS PIPELINE COMPANY OF AMERICA

CAG–4. DOCKET# RP01–388, 000, NORTHERN BORDER PIPELINE COMPANY

CAG–5.
DOCKET# RP99–518, 021, PG&E GAS TRANSMISSION, NORTHWEST CORPORATION
OTHER#S RP99–518, 019, PG&E GAS TRANSMISSION, NORTHWEST CORPORATION
RP99–518, 020, PG&E GAS TRANSMISSION, NORTHWEST CORPORATION

CAG–6.
DOCKET# RP01–394, 000, TEXAS EASTERN TRANSMISSION CORPORATION

CAG–7.
DOCKET# RP01–397, 000, GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP

CAG–8.
DOCKET# RP01–407, 000, ALGONQUIN GAS TRANSMISSION COMPANY

CAG–9.
DOCKET# RP01–410, 000, ALGONQUIN LNG, INC.

CAG–10.
DOCKET# RP01–401, 000 COLUMBIA GAS TRANSMISSION CORPORATION
OTHER#S CP01–260, 000, COLUMBIA GAS TRANSMISSION CORPORATION

CAG–11.
DOCKET# RP01–402, 000, DESTIN PIPELINE COMPANY, L.L.C.

CAG–12.
DOCKET# RP01–408, 000, EAST TENNESSEE NATURAL GAS COMPANY

CAG–13.
DOCKET# RP01–409, 000, MARITIMES & NORTHEAST PIPELINE, L.L.C.

CAG–14.
DOCKET# RP01–406, 000, NATURAL GAS PIPELINE COMPANY OF AMERICA

CAG–15.
DOCKET# RP01–400, 000, PG&E GAS TRANSMISSION, NORTHWEST CORPORATION

CAG–16.
DOCKET# RP01–404, 000, OVERTHRUST PIPELINE COMPANY

CAG–17.
DOCKET# RP01–396, 000, NORTHERN NATURAL GAS COMPANY

CAG–18.
DOCKET# RP01–395, 000, NORTHERN NATURAL GAS COMPANY

CAG–19.
DOCKET# PR01–1, 000, ASSOCIATED NATURAL GAS COMPANY

CAG–20.

DOCKET# RP00–325, 000, COLORADO INTERSTATE GAS COMPANY
OTHER#S RP01–38, 000, COLORADO INTERSTATE GAS COMPANY
CAG–21.
DOCKET# RP00–344, 000, DOMINION TRANSMISSION, INC.
OTHER#S RP00–601, 000, DOMINION TRANSMISSION, INC.
CAG–22.
DOCKET# RP00–460, 000, TOTAL PEAKING SERVICES, L.L.C.
CAG–23.
DOCKET# RP01–242, 001, SOUTHERN NATURAL GAS COMPANY
CAG–24.
DOCKET# CP95–168, 006, SEA ROBIN PIPELINE COMPANY
CAG–25.
DOCKET# RP00–533, 002, ALGONQUIN GAS TRANSMISSION COMPANY
OTHER#S RP00–535, 002, TEXAS EASTERN TRANSMISSION, LP
CAG–26.
OMITTED
CAG–27.
DOCKET# TM99–6–29, 002, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
CAG–28.
DOCKET# TM00–1–25, 006, MISSISSIPPI RIVER TRANSMISSION CORPORATION
CAG–29.
DOCKET# OR99–16, 001 COLONIAL PIPELINE COMPANY
CAG–30.
OMITTED
CAG–31.
DOCKET# RP92–137, 050, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
OTHER#S RP93–136, 000, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
CAG–32.
DOCKET# RP99–159, 000, SOUTHERN NATURAL GAS COMPANY
OTHER#S RP99–159, 001, SOUTHERN NATURAL GAS COMPANY

Consent Agenda—Energy Projects—Hydro

CAH–1.
DOCKET# P–2150, 021, PUGET SOUND ENERGY, INC.
CAH–2.
DOCKET# UL96–16, 007, CHIPPEWA AND FLAMBEAU IMPROVEMENT COMPANY
OTHER#S UL96–17, 007, CHIPPEWA AND FLAMBEAU IMPROVEMENT COMPANY
CAH–3.
OMITTED
CAH–4.
DOCKET# P–1894, 193, SOUTH CAROLINA ELECTRIC AND GAS COMPANY
CAH–5.
DOCKET# P–2485, 015, NORTHEAST GENERATION COMPANY
CAH–6.
DOCKET# P–5, 062, PP&L MONTANA, LLC
CAH–7.
DOCKET# P–2114, 091, PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY, WASHINGTON

Consent Agenda—Energy Projects—Certificates

CAC–1.
DOCKET# CP00–232, 000, IROQUOIS GAS TRANSMISSION SYSTEM, L.P.
OTHER#S CP00–232, 001, IROQUOIS GAS TRANSMISSION SYSTEM, L.P.
CAC–2.
DOCKET# CP01–58, 000, DOMINION TRANSMISSION, INC.
CAC–3.
DOCKET# CP01–65, 000, EASTERN SHORE NATURAL GAS COMPANY
CAC–4.
DOCKET# CP01–66, 000, EGAN HUB PARTNERS, L. P.
CAC–5.
DOCKET# CP01–46, 000, NATIONAL FUEL GAS SUPPLY CORPORATION
CAC–6.
DOCKET# CP01–145, 000, OTAY MESA GENERATING COMPANY, LLC
CAC–7.
DOCKET# CP97–83, 000, TRUNKLINE GAS COMPANY
OTHER#S CP97–84, 000, TRUNKLINE FIELD SERVICES, INC.
CAC–8.
DOCKET# CP00–435, 000, NATURAL GAS PIPELINE COMPANY OF AMERICA
CAC–9.
DOCKET# CP98–233, 001, TRANSWESTERN PIPELINE COMPANY
CAC–10.
DOCKET# CP95–516, 001, ENRON GULF COAST GATHERING LIMITED PARTNERSHIP
OTHER#S CP95–519, 001, NORTHERN NATURAL GAS COMPANY
CAC–11.
DOCKET# CP96–73, 001, SEAHAWK TRANSMISSION SYSTEM
CAC–12.
DOCKET# CP01–68, 001, INDIANA GAS COMPANY, INC.
CAC–13.
DOCKET# GP01–1, 000, SHELL DEEPWATER DEVELOPMENT, INC.

Energy Projects—Hydro Agenda

H–1.
RESERVED

Energy Projects—Certificates Agenda

C–1.
RESERVED

Markets, Tariffs and Rates—Electric Agenda

E–1.
RESERVED

Markets, Tariffs and Rates—Gas Agenda

G–1.
RESERVED

David P. Boergers,

Secretary.

[FR Doc. 01–13496 Filed 5–24–01; 11:02 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01–9–000]

Notice of Order Proposing Reporting Requirement on Natural Gas Sales to California Market and Requesting Comments

May 18, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice.

SUMMARY: The Commission is proposing to issue an order imposing certain reporting requirements on natural gas sellers and transporters serving the California market. This reporting requirement is intended to provide the Commission with the necessary information to determine what action, if any, it should take within its jurisdiction. The Order requests comments on the proposed information collection requirements.

DATES: Comments due June 18, 2001.

ADDRESSES: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington DC 20426.

FOR FURTHER INFORMATION CONTACT: Jacob Silverman, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–2078.

SUPPLEMENTARY INFORMATION:

Federal Energy Regulatory Commission

Before Commissioners: Curt Hébert, Jr., Chairman; William L. Massey, and Linda Breathitt

Reporting of Natural Gas Sales to the California Market

[Docket No. RM01–9–000]

Order Proposing Reporting Requirement on Natural Gas Sales to California Market and Requesting Comments

Issued May 18, 2001.

In the past year there has been a sharp increase in the price of natural gas sold in the California market, which has exceeded the increase in other markets. While natural gas prices have recently fallen, prices remain higher in California than in any other market in the United States, including those markets that are supplied by the same producing areas. The Commission is therefore proposing to issue an order imposing certain reporting requirements on natural gas sellers and transporters serving the California market. This reporting requirement is intended to

provide the Commission with the necessary information to determine what action, if any, it should take within its jurisdiction. As discussed below, the Commission requests comments on its proposed information collection requirements.

Background

The year 2000 saw a dramatic change in the price of natural gas throughout the United States. Before December 2000, the spot price of natural gas in the California market was comparable to the spot price of natural gas in other markets.[1] Thus, in January 2000, the spot price range for gas sold at the California border was $2.33–.52,[2] similar to the spot price range in other markets. However, by December 2000 the spot price range at the California border was $11.79–$18.80, while in other markets the spot price range was between $4 and $7.

The disparity in spot market prices continues. As reported in the May 18, 2001 Gas Daily, the most recent daily spot price for gas various points on the southern California border are in excess of $9.00, while in the producing basins and other downstream markets, the spot prices are in the $4 range. For example, the spot price for SoCal Gas, large packages was $9.60–11.00, while for El Paso Permian Basin area it was $3.80–4.08 , and for Transco, New York citygate it was $4.50–4.68.

The price increases in California have led to the filing of several complaints with the Commission, requesting that the Commission take various actions. The requested actions include: (1) Reimposing price-caps for short-term releases of capacity for service to the California border and to points of interconnection between interstate pipelines and California local distribution companies (LDCs); [3] (2) requiring sellers to state separately the transportation and commodity components of bundled rates for sales at these points; [4] and (3) setting a benchmark price for natural gas prices in the United States, and permitting complaints to be filed at the Commission alleging any sale prices above the benchmark to be unjust and unreasonable and seeking refunds for three years commencing January 1, 2001.[5] The complaints assert that the current high price for natural gas in the California market is a factor contributing to the current high cost of electric power in California.

While the relatively high prices for natural gas in California are a matter of serious concern, the Commission's legal authority to take actions that would affect those prices is limited by the existing statutory framework. The Commission does have jurisdiction under sections 1, 4, and 5, of the Natural Gas Act (NGA) to regulate the transportation of natural gas by interstate pipelines, and NGA section 7 authorizes the Commission to issue certificates for the construction of new interstate pipelines. However, the Commission's jurisdiction to regulate the prices charged by sellers of natural gas is limited in light of the Natural Gas Policy Act of 1979 (NGPA), and Congress' subsequent enactment of the Natural Gas Wellhead Decontrol Act.

The NGA's grant of jurisdiction over natural gas sales in interstate commerce is limited to sales for resale.[6] The NGPA and the Natural Gas Wellhead Decontrol Act substantially narrowed the Commission's NGA jurisdiction over sales for resale, with the Wellhead Decontrol Act removing all "first sales" from the Commission's NGA jurisdiction as of January 1, 1993.[7] First sales include all sales other than sales by interstate or intrastate pipelines, LDCs, and their affiliates.[8] In addition, Section 3(b) of the NGA now provides that all sales of gas imported from countries with free trade agreements, such as Canada and Mexico, have first sale status even when sold by pipelines, LDCs, or affiliates. The end result of these various statutory provisions is that the only sales that the Commission currently has jurisdiction to regulate are sales for resale of domestic gas by pipelines, LDCs, or their affiliates.

Proposed Commission Action

Ordinarily, in a competitive, seamless national market for natural gas, where gas can flow to wherever it can command the highest price, price disparities of the type that appear to have arisen between California and the rest of the country would not be expected to continue for sustained periods of time. The high price of natural gas in California would cause more sellers to direct gas towards the California market, thereby increasing the supply there, which would in turn lower the price in California and bring it in line with the national average. The Commission is therefore concerned that the price disparity between California and the rest of the country continues.

In order to help the Commission understand why the disparity has occurred and continues to exist, the Commission proposes to collect information from sellers of natural gas to the California market, and interstate pipelines and local distribution companies (LDCs) serving the California market, and seeks comments on this proposal. The specific information that the Commission proposes to collect is set forth in an appendix to this order. The information to be reported would include data relating to the volumes and prices of sales to the California market including transportation rates, the daily operational capacity of pipelines to, and in the California market, and the actual volumes flowing to, and in California, and gas sales and the transportation requirements of the LDCs.

This information should assist the Commission in carrying out its regulatory responsibilities. First, it will help the Commission determine what part of the problem, if any, is within the scope of its jurisdiction. For example, the information to be collected concerning sales should enable the Commission to determine what percentage of the volumes sold into the California market is domestically produced gas sold by marketers affiliated with pipelines and LDCs in sales for resales. As discussed above, those are the only sales now being made that the Commission has jurisdiction to regulate.[9] The information proposed to be collected should also give the Commission an accurate picture of the overall average gas costs being incurred by all purchasers of natural gas moving into the California market. While the spot market prices for gas at the

[1] The pricing information is contained in the Gas Daily 2000 Annual Price Issue.

[2] The price is $/MMBTU.

[3] See Docket No. RP01–180–000, filed by San Diego Gas and Electric Company (SDG&E), and Docket No. RP01–222–000, filed by The Los Angeles Department of Water and Power.

[4] See Docket No. RP01–180–000.

[5] See Docket No. RP01–223–000, filed by the National Association of Gas Consumers (NAGC).

[6] NGA section 1(b) provides:

The provisions of this act shall apply * * * to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use. * * *

[7] The Wellhead Decontrol Act did this by amending section 601(a)(1)(A) of the NGPA so that, since January 1, 1993, it has provided:

For purposes of section 1(b) of the Natural Gas Act, the provisions of the Natural Gas Act and the jurisdiction of the Commission under such Act shall not apply to any natural gas solely by reason of any first sale of such natural gas.

In addition, NGPA section 601(b)(1)(A), as amended by the Wellhead Decontrol Act, deems that whatever price the entity charges for a first sale is just and reasonable, and NGPA section 601(a)(1)(C) provides that the Commission may not treat the entity as a "natural gas company" subject to the Commission's NGA jurisdiction.

[8] NGPA Section 2(21).

[9] For the most part, interstate pipelines no longer sell natural gas.

California border have been relatively high, gas purchasers holding firm capacity on interstate pipelines can purchase natural gas at the spot market prices available in the producing basins, and then have the gas transported to California markets over their firm capacity. At present, the Commission does not have reliable information concerning the percentage of gas moving into the California market that is actually priced at the high spot market prices reported at the California borders.

The information to be collected will also enable the Commission to determine the extent to which the cost of interstate transportation, which is subject to the Commission's jurisdiction, affects the price for the gas commodity at the California border. Currently, the Commission establishes maximum rates for interstate transportation, with the exception of short-term capacity releases for which maximum rates have been waived until September 30, 2002.

The Commission recognizes that certain entities that will be required to respond to the data request may not be natural gas companies subject to the Commission's NGA section 1 jurisdiction. However, the Commission has extensive authority under NGA section 14 to collect information from participants in the natural gas market regardless of whether they are "natural gas companies." Section 14(a) of the NGA states:

> The Commission may investigate any facts, conditions, practices, or matters which it may find necessary or proper in order to determine whether any person has violated or is about to violate any provision of [the NGA] or any rule, regulation, or order hereunder, or to aid in the enforcement of the provisions of this act or in prescribing rules or regulations thereunder, or in obtaining information to serve as a basis for recommending further legislation to the Congress.

Section 14(c) also provides that, "for the purpose of any investigation or any other proceeding under [the NGA], any member of the Commission or any officer designated by it is empowered to . . . take evidence and require the production of any books, papers, correspondence, memoranda, contracts, agreement or other records which the Commission finds material to the inquiry."

Section 14 is not limited to natural gas companies, but refers to "persons," which is defined in section 2(1) to include "an individual or corporation." Clearly, the need for information cannot be limited to those subject to regulation when "further legislation" is a possible consideration. Moreover, NGA section 16 grants the Commission "power to perform any and all acts. . . as it may find necessary or appropriate to carry out the provisions of this act." Together these sections empower the Commission with the authority to require any entity to furnish the Commission any information that the Commission needs to carry out its functions.

In this case, the Commission must have an overall picture of what is occurring in the California market in order to determine the potential effectiveness of actions within the Commission's jurisdiction. Only by collecting information concerning all California sales can the Commission obtain the overall picture and feel confident that any actions it might take would have the intended consequences.

The Commission proposes the submission be on a quarterly basis, and submitted within thirty days after the end of the quarter. The Commission will develop a form for electronic filing of the data in a standardized format that will be set forth in the request. Responses would be required to be verified under oath by a person having knowledge of the matters set forth. 18 CFR § 385.2005(b) (2000). Parties responding to the request could request confidential treatment of their responses. See 18 CFR § 388.112 (2000). The Commission would aggregate the data submitted and analyze it promptly. The Commission would then determine, what action, if any, is warranted.

Because the Commission anticipates requesting the information as soon as possible, the Commission, pursuant to 5 CFR 1320.13 (2000), will request the Office of Management and Budget for emergency processing of the proposed collection of information.

Comments on the proposed reporting requirement are to be submitted within thirty days of the date of issuance of this order. The Commission does not believe that reply comments are required. Accordingly, after receipt of the comments, the Commission will determine whether to proceed with the proposed reporting requirement.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

Appendix

Answers to all questions below that require a statement of volumes should set forth the requested volumes on an MMBtu basis.

For Interstate Pipelines

1. On a daily basis for the period _____ to _____, please provide the following information for each contract for transportation to the California border. Please provide this information *by column from left to right:*

a. The transaction or contract identification number;

b. Contract demand by shipper;

c. The daily scheduled volume by shipper;

d. The daily delivered volume by shipper;

e. Whether the service is firm or interruptible;

f. The rate charged;

g. Receipt and delivery points associated with the contract; and,

h. Whether the shipper is affiliated with the pipeline.

Along with the hard copy response, please provide a CD–ROM containing the response to this question. Please provide this information in Excel version 97 or 2000 format.

2. On a daily basis for the period _____ to _____, please provide the following information for each capacity release transaction for transportation to the California border. Please provide this information *by column from left to right:*

a. The transaction or contract identification number, or offer number; (This number should tie to contract number reported in Question 1,a., above)

b. The name of the releasing shipper;

c. The name of the acquiring shipper;

d. The contract quantity;

e. The acquiring shipper's contract rate; and,

f. The releasing shipper's contract rate.

Along with the hard copy response, please provide a CD–ROM containing the response to this question. Please provide this information in Excel version 97 or 2000 format.

3. On a daily basis for the period _____ to _____, please provide the following system information. Please provide this information *by column from left to right:*

a. The maximum peak day design capacity;

b The daily maximum flowing capacity;

c The daily scheduled system volume;

d. The daily scheduled volume at each California delivery point;

e. An explanation of each instance that the daily maximum flowing capacity is below the maximum peak day design capacity; and,

f. An explanation of any daily variance in the maximum flowing capacity.

Along with the hard copy response, please provide a CD–ROM containing the response to this question. Please provide this information in Excel version 97 or 2000 format.

4. On a daily basis for May 1999 and May 2000, please provide the following system information. Please provide this information *by column from left to right:*

a. The maximum peak day design capacity;

b The daily maximum flowing capacity;

c The daily scheduled system volume;

d. The daily scheduled volume at each California delivery point;

Along with the hard copy response, please provide a CD–ROM containing the response to this question. Please provide this information in Excel version 97 or 2000 format.

For Sellers of Natural Gas to the California Market

1. State whether the seller is affiliated with an interstate or intrastate natural gas pipeline company or local distribution company, and, if so, give the name and address the affiliated company.

2. On a daily basis for the period _____ to _____, please provide the following information for each sales contract under which the gas is physically delivered at or into the California market. Please provide this information *by column from left to right:*

a. The sales contract's identification number;

b. The term of the sales contract (beginning and ending dates);

c. The name of the buyer identifying whether the buyer is an energy marketer, local distribution company, or end user;

d. The volumes sold(on a MMBtu basis);

e. Whether the buyer is affiliated with a pipeline and if so, which pipeline; and,

f. The price paid by buyer.

Along with the hard copy response, please provide a CD–ROM containing the response to this question. Please provide this information in Excel version 97 or 2000 format.

3. For each sales contract, identify separately the transportation component and the gas commodity component of the price. If these components are not specifically set forth in the contract, provide a valuation, with explanation, of each component.

Along with the hard copy response, please provide a CD–ROM containing the response to this question. Please provide this information in Excel version 97 or 2000 format.

4. On a daily basis for the period _____ to _____, please provide the following information for each contract for transportation to the California border. Please provide this information *by column from left to right:*

a. The contract demand;

b. The daily nominated volume;

c. The daily scheduled volume;

d. The daily delivered volume;

e. Whether the service is firm or interruptible;

f. The rate charged; and

g. Receipt and delivery points associated with the contract.

Along with the hard copy response, please provide a CD–ROM containing the response to this question. Please provide this information in Excel version 97 or 2000 format.

5. For the period _____ to _____, please provide the following information for each gas purchase contract where the gas is physically delivered at or into the California market. Please provide this information *by column from left to right:*

a. The purchase contract's identification number;

b. The pipeline;

c. The term of the purchase contract (beginning and ending dates);

d. The volumes (on a MMBtu basis) purchased;

e. The price paid; and,

f. Identify the point where seller took title to the gas.

Along with the hard copy response, please provide a CD–ROM containing the response to this question. Please provide this information in Excel version 97 or 2000 format.

For Local Distribution Companies

1. Provide your system's gas sales and transportation requirements, (i.e, contract demands and daily demands) by core, non-core, electric generation, and non-utility loads. Provide a break down of these demands by type of service (e.g., sales and transportation) and quality of service (firm/interruptible).

Along with the hard copy response, please provide a CD–ROM containing the response to this question. Please provide this information in Excel version 97 or 2000 format.

2. On a daily basis for the period _____ to _____, please provide the following information for each contract the local distribution company has with a transportation customer. Please provide this information *by column from left to right:*

a. Contract demand by shipper;

b. The daily scheduled volume by shipper;

c. The daily delivered volume by shipper;

d. Whether the service is firm or interruptible;

e. The rate charged; and,

f. Receipt and delivery points associated with the contract.

Along with the hard copy response, please provide a CD–ROM containing the response to this question. Please provide this information in Excel version 97 or 2000 format.

3. On a daily basis for the period _____ to _____, please provide the following information for each contract the local distribution company has with a sales customer. Please provide this information *by column from left to right:*

a. The contract demand by purchaser;

b. The term of the sales contract (beginning and ending dates);

c. The volumes (on a MMBtu basis) sold; and,

d. The price paid by purchaser.

Along with the hard copy response, please provide a CD–ROM containing the response to this question. Please provide this information in Excel version 97 or 2000 format.

4. On a daily basis for the period _____ to _____, please provide the following information for each gas purchase contract. Please provide this information *by column from left to right:*

a. The purchase contract's identification number;

b. The term of the purchase contract (beginning and ending dates);

c. The volumes (on a MMBtu basis) bought;

d. The price paid;

e. Whether the price is fixed or indexed (identify the index); and,

f. Identify the point where (name of local distribution company) took title to the gas.

Along with the hard copy response, please provide a CD–ROM containing the response to this question. Please provide this information in Excel version 97 or 2000 format.

5. On a daily basis for the period _____ to _____, please provide by interstate pipeline the type and quantity of transportation service your system has under contract. At each receipt point, provide maximum peak day design capacity, the daily maximum flowing capacity, and the daily scheduled volumes of the local distribution system.

Along with the hard copy response, please provide a CD–ROM containing the response to this question. Please provide this information in Excel version 97 or 2000 format.

6. On a daily basis for the period _____ to _____, please provide your storage service rights, by facility, i.e., capacity and deliverability rights. Additionally, provide daily storage balances, injections and withdrawls.

Along with the hard copy response, please provide a CD–ROM containing the response to this question. Please provide this information in Excel version 97 or 2000 format.

7. On a daily basis for the period _____ to _____, please provide how much of your system's gas supply was from intrastate production sources. Separately identify the sources, volumes, receipt points, and prices. Include the total system supply in your response.

Along with the hard copy response, please provide a CD–ROM containing the response to this question. Please provide this information in Excel version 97 or 2000 format.

8. Provide a summary of your system's gas purchases in the following categories:

a. Daily spot purchases;

b. Monthly;

b. Short-term (more than 1 month and less than 1 year);

c. Medium-term (1–3 years); and,

d. Long-term (more than 3 years).

By month for each of the last three years in the following format *by column from left to right:*

a. Price;

b. Volume; and,

c. Identify, by name, where these purchases were made (producing basin or at the California border).

Along with the hard copy response, please provide a CD–ROM containing the response to this question. Please provide this information in Excel version 97 or 2000 format.

[FR Doc. 01–13349 Filed 5–25–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6984–3]

Agency Information Collection Activities: Proposed Collection; Comment Request; "General Administration Request for Assistance Programs (Lobbying & Litigation Certification Amendment)"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following amendment to an existing Information Collection Request (ICR) to the Office of Management and Budget (OMB): General Administration Request for Assistance Programs (Lobbying & Litigation Certification Amendment), EPA ICR #0938.08, OMB #2030–0020. Before submitting the amendment to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before July 30, 2001.

ADDRESSES: U.S. Environmental Protection Agency, Office of Grants and Debarment, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. A copy of the ICR may be obtained at no charge by contacting Bill Hedling at the above address or at *www.hedling.william*@epa.gov.

FOR FURTHER INFORMATION CONTACT: William Hedling, phone: (202) 564–5377, FAX: 202–565–2470, or e-mail at www.hedling.william@epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Affected entities include not-for-profit institutions, educational institutions, state, local or tribal governments and other entities receiving assistance awards under EPA's fiscal years (FY) 2000 and 2001 Appropriations Acts. Depending on future EPA Appropriations Act language, this requirement may also apply to these entities that receive assistance awards in subsequent fiscal years. Recipients of fellowship awards and other individuals receiving assistance awards are not affected.

Estimated Number of Recipients: Approximately 2000 annually.

Frequency of Response: Once per project or annually.

Estimated Total Annual Hour Burden: 166 hours annually for all recipients.

Estimated Total Annualized Cost (non-labor) Burden: $0.00.

Title: "General Administration Request for Assistance Programs (Lobbying & Litigation Certification Amendment)" OMB #2030–0020, EPA ICR #0938.08, expiring 12/31/2002.

Abstract: Public Law 106–377, § 424 of the FY 2001 VA, HUD and Independent Agencies Appropriations Act (Appropriations Act) requires "A chief officer of any entity receiving funds under this Act shall certify that none of the funds have been used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law." Public Law 106–74, section 426 of the FY 2000 Appropriations Act contains a similar provision. These provisions impose additional information collection requirements on EPA assistance agreements and thus necessitate an amendment to the existing ICR.

The sole purpose of the certification is to validate that a chief executive officer of any entity receiving EPA assistance funds has certified that none of the funds were used in lobbying the Federal Government or in litigation against the United States. The certification will consist of a one-paragraph form that will be signed by a chief executive officer. It will normally be submitted with the final Financial Status Report. Recipients with multiple awards may choose to submit one certification covering all their awards on an annual basis.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

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

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

Burden Statement: It is projected that the time involved in signing this certification is minimal. The estimate of increased time to sign this certification is five minutes.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: May 17, 2001.

Howard F. Corcoran,

Director, Office of Grants and Debarment.

[FR Doc. 01–13410 Filed 5–25–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6983–9]

Agency Information Collection Activities: Proposed Collection; Comment Request; Reporting and Recordkeeping Requirements Under EPA's Natural Gas STAR Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Reporting and Recordkeeping Requirements Under EPA's Natural Gas STAR Program, EPA ICR Number 1736.02, OMB Control Number 2060–0328, expiring on 9/30/2001. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before July 1, 2001.

ADDRESSES: 1200 Pennsylvania Ave., NW., MC 6202J, Washington, DC 20460. Interested persons may obtain a copy of the ICR without charge by writing to the above address or downloading it off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1736.02.

FOR FURTHER INFORMATION CONTACT: Paul Gunning at EPA's Natural Gas STAR Program by phone at (202) 564–9736, by email at *gunning.paul@epa.gov*, or by fax at (202) 565–2254.

SUPPLEMENTARY INFORMATION:

Affected Entities: Entities potentially affected by this action are those which produce, process, transport, and distribute natural gas.

Title: "Reporting and Recordkeeping Requirements Under EPA's Natural Gas STAR Program", EPA ICR Number 1736.02, OMB Control Number 2060–0328, expiring on 9/30/2001.

Abstract: Natural Gas STAR is an EPA-sponsored, voluntary program that encourages natural gas companies to adopt cost effective methods for reducing methane emissions. Natural Gas STAR Partners agree to implement cost-effective Best Management Practices, which will save participants money and improve environmental quality. EPA needs to collect information to establish program participation and to obtain general information on new Natural Gas STAR Partners. EPA also uses the information collection to evaluate a Partner's progress and performance, assess overall program results, and develop technical guidance documents for the benefit of the industry. Information collection is accomplished through the use of an annual reporting process that allows companies to report their accomplishments in either a traditional hard-copy format or electronically. Participation in Natural Gas STAR is voluntary. Natural Gas STAR Partners may designate information submitted under this ICR as confidential business information. EPA will treat all such information as confidential business information and will not make the company or agency-specific information collected under this ICR available to the general public. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

The EPA would like to solicit comments to:

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

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 47 hours per facility. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 90.

Estimated Number of Respondents: 90.

Frequency of Response: varies.

Estimated Total Annual Hour Burden: 4,230 hours.

Estimated Total Annualized Cost Burden: $310,002.

Dated: May 11, 2001.

Kathleen Hogan,

Director, Climate Protection Partnership Division.

[FR Doc. 01–13419 Filed 5–25–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[IN 130; FRL–6984–5]

Adequacy Status of Lake and Porter Counties, Indiana Submitted Ozone Attainment Demonstration and Post 1999 Rate of Progress Plan for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, EPA is notifying the public that EPA has found that the motor vehicle emissions budgets in the Lake and Porter Counties, Indiana (Northwest Indiana) ozone attainment demonstration and post 1999 Rate of Progress (ROP) plan are adequate for conformity purposes. These documents contain motor vehicle emission budgets for VOC for 2002, 2005, and 2007 and for NO_X for 2007. On March 2, 1999, the D.C. Circuit Court ruled that submitted State Implementation Plans (SIPs) cannot be used for conformity determinations until EPA has affirmatively found them adequate. As a result of our finding, Northwest Indiana can use the motor vehicle emissions budgets from the submitted ozone attainment demonstration and the submitted post 1999 ROP plan for future conformity determinations. These budgets are effective June 13, 2001.

FOR FURTHER INFORMATION CONTACT: The finding and the response to comments will be available at EPA's conformity website: *http://www.epa.gov/otaq/transp/*, (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity").

Ryan Bahr, Environmental Engineer, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4366, bahr.ryan@epa.gov.

SUPPLEMENTARY INFORMATION:

Background

Throughout this document, whenever "we," "us" or "our" is used, we mean EPA. Today's notice is simply an announcement of a finding that we have already made. EPA Region 5 sent a letter to the Indiana Department of Environmental Management on May 9, 2001, stating that the motor vehicle emissions budgets in the Northwest Indiana submitted ozone attainment demonstration and ROP plan for 2002,

2005 and 2007 are adequate. This finding will also be announced on EPA's conformity website: *http://www.epa.gov/otaq/transp/*, (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity").

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do. Transportation conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudge EPA's ultimate approval of the SIP. Even if we find a budget adequate, the EPA may later be disapprove the SIP.

We've described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999 memo titled "Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision"). We followed the guidance in making our adequacy determination.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 14, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–13412 Filed 5–25–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ND–001–0008; AD–FRL–6973–1]

Approval and Promulgation of State Implementation Plans; North Dakota; Notice of Potential Violations of the Prevention of Significant Deterioration Increments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Information notice.

SUMMARY: North Dakota has conducted a draft modeling analysis that shows numerous violations of the Class I prevention of significant deterioration (PSD) increments for sulfur dioxide (SO_2) in four Class I areas. Those Class I areas include Theodore Roosevelt National Park, the Lostwood Wilderness Area, the Medicine Lakes Wilderness Area, and the Fort Peck Class I Indian Reservation. In a March 13, 2001 letter to EPA, the North Dakota Department of Health has committed to refine this modeling analysis and to subsequently adopt revisions to the State Implementation Plan (SIP) as may be necessary to address the increment violations that may be shown by the revised analysis. The purpose of this document is to inform the public of potential increment violations and of the commitments made by the North Dakota Department of Health to address the potential violations.

EFFECTIVE DATE: May 29, 2001.

ADDRESSES: Relevant documents are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2405. Interested persons should contact the person listed below to arrange for a mutually agreeable time to view these documents.

FOR FURTHER INFORMATION CONTACT: Amy Platt, Air and Radiation Program, Environmental Protection Agency, Region VIII, (303) 312–6449.

SUPPLEMENTARY INFORMATION:

I. What Is the Purpose of This Document?

The purpose of this document is to inform the public of the commitments made by the North Dakota Department of Health regarding draft modeling studies that have shown violations of the PSD increment for SO_2 in four Class I areas. Those Class I areas include Theodore Roosevelt National Park and the Lostwood Wilderness Area, both of which are in North Dakota, and the Medicine Lakes Wilderness Area and the Fort Peck Class I Indian Reservation, both of which are within the State of Montana. In a March 13, 2001 letter to EPA, the North Dakota Department of Health has committed to refine this modeling analysis and to subsequently adopt revisions to its SIP as may be necessary to address the increment violations that may be shown by the revised modeling analysis. Specifically, the North Dakota Department of Health made the following commitments:

- By April 1, 2001—The State will develop an air quality modeling protocol.
- By January 2, 2002—The State will complete its modeling analysis (or within nine months from the time EPA completes its review of the modeling protocol).
- By February 1, 2002—The State will provide EPA with a summary of its modeling analysis.
- By August 1, 2003—The State will complete a SIP revision to resolve the increment issue (if the modeling analysis shows that the increment is exceeded).

Note that EPA is publishing the State's commitments in order to inform the public of the process that the State and EPA are following to address the increment violations modeled by the State. However, this document does not make the State's commitments legally binding.

EPA responded to the State in a letter dated March 28, 2001. Specifically, EPA stated that, in light of the State's March 13, 2001 commitment letter, we will not initiate formal action to call for a SIP revision to address these violations of the PSD increments for SO_2. We acknowledged that the State needs to refine the modeling analysis to better determine the appropriate control strategy(ies) to address the violations, and we will work with the State in its efforts. If the State does not meet its commitments, or if the State and EPA cannot agree on an acceptable modeling protocol or on acceptable control measures, we may decide to initiate a formal SIP call.

II. What Are the PSD Increments?

The purpose of the PSD program of the Clean Air Act (Act), 42 U.S.C. 7470–7479, is to ensure that the air quality in clean air areas remains clean and does not deteriorate to the level of the national ambient air quality standards (NAAQS). The mechanism created by Congress to meet this goal is the establishment of "PSD increments." These increments define the maximum allowable increases over baseline concentrations that are allowed in a clean air area for a particular pollutant. Any increase above this level indicates that significant deterioration of air quality has occurred. Because only emissions increases above the baseline concentration are considered in determining how much increment has been consumed, the amount of increment consumed can only be determined through air quality dispersion modeling, not through direct monitoring of ambient concentrations.

The Act provides for three different classes of air quality protection, to reflect varying levels of protection from significant deterioration in air quality. In the 1977 Clean Air Act Amendments, Congress designated all international parks, national wilderness areas and national memorial parks which exceed 5000 acres in size, and all national parks

which exceed 6000 acres in size as mandatory Class I areas. Congress also allowed States or Tribes to request redesignation of any area to Class I air quality protection status. Class I areas are to receive special protection from degradation of air quality, and the most stringent PSD increments apply in these areas.

The Class I increments for SO_2 are defined in section 163(b)(1) of the Act, 42 U.S.C. 7473(b)(1), as follows:

Annual arithmetic mean	2 ug/m^3
Twenty-four hour maximum	5 ug/m^3
Three-hour maximum	25ug/m^3

These increments are also promulgated in EPA's PSD regulations at 40 CFR 52.21(c). North Dakota has adopted these increments as state regulation in section 33–15–15–01.2.b. of the North Dakota Administrative Code, which EPA approved as part of the SIP on November 2, 1979 (44 FR 63102).

For any averaging period other than an annual averaging period, section 163(a) of the Act allows the increment to be exceeded during one such period per year. Otherwise, section 163 of the Act provides that the increments are not to be exceeded and that the SIP must contain measures assuring that the increments will not be exceeded. Section 110(a)(2)(D)(i)(II) of the Act, 42 U.S.C. 7410(a)(2)(D)(i)(II), further requires the SIP to include provisions prohibiting any source or other emitting activity within the State from emitting air pollution in amounts that will interfere with measures to be included in any other State's implementation plan to prevent significant deterioration of air quality. EPA's PSD regulations also provide that the SIP must be revised whenever EPA or the State determines that an applicable PSD increment is being violated. (See 40 CFR 51.166(a)(3).)

III. How Can I Obtain More Information on This Matter?

Copies of the State's March 13, 2001 letter and EPA's March 28, 2001 response can be obtained from the contact person listed above. A Background Document is also available, which discusses in greater detail the PSD requirements of the Act, the history of PSD increment violations in North Dakota Class I areas, and the State's draft modeling analysis.

This notice today informs the public and identifies the appropriate EPA regional office from which the public may gain further information and review the relevant documents pertaining to this North Dakota PSD increment issue.

Dated: April 20, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 01–13409 Filed 5–25–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–100171; FRL–6784–1]

DynCorp I & ET and Geologics; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide-related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to DynCorp I & ET and its subcontractor, Geologics, in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). DynCorp I & ET and its subcontractor, Geologics, have been awarded a contract to perform work for OPP, and access to this information will enable DynCorp I & ET and its subcontractor, Geologics, to fulfill the obligations of the contract.

DATES: DynCorp I & ET and its subcontractor, Geologics, will be given access to this information on or before June 4, 2001.

FOR FURTHER INFORMATION CONTACT: By mail: Erik R. Johnson, FIFRA Security Officer, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7248; e-mail address: johnson.erik@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the 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?

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/.

II. Contractor Requirements

Under Contract No. 68–W0–1007, DynCorp I & ET and its subcontractor, Geologics, will perform the following based on the statement of work.

OPP develops data requirements and study guidelines that are used to assess the potential impact pesticides may have on human health and the environment. Before using these data for regulatory purposes, OPP must evaluate the studies to determine their adequacy and to guarantee that appropriate quality assurance (QA) procedures were carried out. In evaluating and performing services required under this statement of work, the contractor shall submit all relevant information used in developing conclusions or options to the cognizant Work Assignment Manager (WAM) for all projects for review and approval.

OPP has determined that access by DynCorp I & ET and its subcontractor, Geologics, to information on all pesticide chemicals is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with DynCorp I & ET and its subcontractor, Geologics, prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, DynCorp I & ET and its subcontractor, Geologics, are required to submit for EPA approval a security plan

under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to DynCorp I & ET and its subcontractor, Geologics, until the requirements in this document have been fully satisfied. Records of information provided to DynCorp I & ET and its subcontractor, Geologics, will be maintained by EPA Project Officers for this contract. All information supplied to DynCorp I & ET and its subcontractor, Geologics, by EPA for use in connection with this contract will be returned to EPA when DynCorp I & ET and its subcontractor, Geologics, have completed their work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: May 15, 2001.

Richard D. Schmitt,

Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 01–13421 Filed 5–25–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6984–2]

Notice of Availability of Funds for Source Water Protection

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) seeks proposals from organizations interested in working with communities across the nation that are served by public water systems with highly or moderately susceptible drinking water sources to protect their sources of drinking water from contamination using a resource-based or geographic/regional-based approach. All communities involved in this effort should have completed source water assessments.

EPA is providing this financial support to provide training and technical assistance on innovative approaches that will assist communities across the country in establishing sustainable efforts to address the obstacles to preventing contamination of their water resources and lowering the susceptibility of source waters through a resource-based or geographic regional-based planning approach.

EPA is currently funding an organization with a national network of field technicians assisting communities with watershed or resource-based planning to protect their water supplies. However, EPA is very interested in funding training and technical assistance across the country of innovative types of approaches that can be sustained by community efforts to prevent contamination of drinking water sources. EPA will award one grant that would complement the field technician approach.

DATES: All project proposals must be received by EPA no later than June 28, 2001.

ADDRESSES: Send five paper copies of the complete proposal to: Debra Gutenson (4606), Office of Ground Water and Drinking Water, U. S. EPA, 1200 Pennsylvania Ave., NW, Washington, DC 20460; and an electronic copy of the completed proposal to gutenson.debra@epa.gov.

FOR FURTHER INFORMATION CONTACT: Debra Gutenson, (202) 260–2733.

SUPPLEMENTARY INFORMATION:

Background

What Is a State or Tribal Source Water Assessment?

As mandated by the Safe Drinking Water Act Amendments of 1996, a state's source water assessment identifies the area that supplies water to each public drinking water system within the state, inventories the significant potential sources of contamination, and analyzes how susceptible the drinking water source is to contamination (often referred to as a "susceptibility determination"). An assessment is complete when the results are made widely available to the public. The Amendments allocated funding to states to complete source water assessments for all 170,000 public water systems. The results of these assessments are to be provided to each water supplier and made widely accessible to the public by 2003 (a few states are scheduled for completion in 2004). EPA is also helping Tribes complete source water assessments of public water supplies in Indian Country.

The assessments are intended to give communities the information that they need to make informed decisions to prevent contamination of their drinking water sources.

What Is a Highly or Moderately Susceptible Drinking Water Source?

There is a high degree of flexibility in how a state determines the susceptibility of its public water systems. EPA is providing this funding to focus on highly or moderately susceptible drinking water sources. Therefore, the organization receiving this funding would need to work with the state source water programs to identify those public water systems or areas of the state that the state determines are highly or moderately susceptible to contamination and would most benefit from source water contamination prevention planning and actions on a resource-based or geographic/regional-based scale.

What Is Source Water Contamination Prevention?

Source water contamination prevention is the establishment of sustainable local programs that lower the risk of contaminants of concern entering waters serving as public drinking water supplies. Building upon State or Tribal source water assessments, more communities will be examining what actions are necessary to prevent contamination of their sources of drinking water from the identified potential threats, and thereby lower the susceptibility of their water supply to contamination. Planning is a critical first step so that a community or a group of communities can use their limited resources to most effectively target sources of contamination that pose the highest or most immediate threats. Many communities need assistance working through the planning process. Implementing planned actions is the next step and communities also need assistance to develop sustainable efforts to initiate and/or maintain lowered susceptibility of their water supplies.

Ideally, communities with public water systems that share the same resource or common threats would work together to identify their needs and jointly set priorities. Some basic planning elements include:

—An analysis of the state or tribal source water assessment for the systems involved in the planning.
—Identification of preventive action priorities and recommended management measures for addressing them, including costs.
—Identification of an approach for determining the effect of the proposed priority actions on lowering the threats to source waters.
—Identification of alternative water supplies which would be needed in the case of emergencies (contingency planning).

Many communities also need assistance in implementing their priority preventive actions so a community has the capacity to maintain these actions once outside assistance is complete. Preventive actions might

include land acquisition, land use ordinance establishment, leaky underground gas tank removal from sensitive areas, implementing best management practices on agricultural lands, relocation of high-risk threats, or other management measures.

Additionally, many communities need assistance in locating funding sources for implementing and sustaining management measures once such preventive measures are identified. There are many federal, state and non-governmental sources of funding that may be available.

What Is "Resource-Based or Geographic/Regional-Based" Source Water Contamination Prevention?

A resource-based or geographic/regional-based approach to source water contamination prevention promotes partnerships between public water systems that share a common source (river, lake, spring or aquifer), share common political or geographical borders (counties or planning districts), or face common contaminant threats. The approach encourages joint contamination prevention of water supplies through a single planning and prioritization process. A single water system might also benefit from a resource-based or geographic/regional-based approach if the community cannot adequately prevent contamination of its drinking water source without collaborating with communities in the same watershed or recharge area that may have more control over potential threats to the water supply.

While similar, a resource-based or geographic/regional-based approach is distinguished from watershed planning by focusing also on ground water areas that may not coincide with a watershed boundary. It is distinguished from traditional wellhead protection planning by broadening the scope from the traditional water system-by-system planning approach to planning on a shared resource scale that is based on natural geological and hydrological boundaries. However, a resource-based or geographic/regional-based approach is not necessarily the same as large aquifer-wide planning (such as the Edwards aquifer) or a large watershed (e. g. Mississippi basin). These large scales often are beyond the scope of what is realistic or necessary for preventing contamination of sources of drinking water.

Why Is EPA Limiting the Focus to Highly or Moderately Susceptible Source Waters, and Using a Resource-Based or Geographic/Regional-Based Approach?

There are over 170,000 public water systems in the United States. While States have resources through the State Revolving Fund Programs, EPA has limited discretionary resources to help local communities implement source water contamination prevention for all of these systems' sources of drinking water. EPA believes that communities with public water supplies that are most susceptible to contamination should be the communities first targeted for assistance to identify and implement preventive management measures to protect their drinking water sources.

EPA is also trying to encourage a resource-based or geographic/regional-based approaches to source water contamination prevention as an alternative to the traditional water system-by-system wellhead protection approach. This "multi-system" planning and action process can be more cost effective because one contamination prevention plan serves several systems. Also, it can result in a level of protection that is sometimes more effective in lowering threats, since threats to water quality are not always close to the intake or wellhead.

Why Is EPA Looking for Innovative Approaches in Addition to the National Field Presence It Is Establishing?

EPA recognizes that there is no one right approach to achieving source water contamination prevention, and wants to encourage innovative approaches to establish sustainable local efforts that deal with the variety of factors affecting a community's success. This funding will allow for training and technical assistance of different approaches that, after evaluation, may be incorporated more broadly across the country by the national field technicians.

Funding Level and Statutory Authority

Funding is authorized under the Safe Drinking Water Act 42 U.S.C. 300j–1(c)(3)(C). Total funding available for this proposal is $398,000. EPA intends to disburse these funds to one organization.

Proposal Contents

Interested applicants should submit a work plan that:

—Outlines the training and technical assistance on innovative approaches in assisting communities to engage in community-based source water contamination prevention planning and priority action implementation that could lead to sustained efforts once outside assistance is complete. Elements of training and technical assistance should include: process for choosing local communities or areas, method for evaluation of state and local source water assessment information, development of a contamination prevention plan, methods of assisting communities with innovative preventive approaches that can be sustained, and a process of evaluation for the approaches used.

—Includes a budget of no more than $398,000 for implementing the approach over a two-year period.

—Provides biographies of the project leaders.

Eligibility Criteria

The recipient organization must be a not-for-profit organization, educational institution, or public agency that meets the following criteria:

—Experience providing technical assistance to communities implementing community-based environmental programs that could prevent contamination of drinking water sources, ground water or surface water quality.

—Experience working with communities to do resource-based or geographic/regional-based/watershed or multi-jurisdictional planning, and facilitating partnerships between disparate stakeholders.

—Access to an established network capable of working with communities nationwide.

—Experience working with state agencies.

—Experience handling large grants of $200,000 or more, timely periodic reporting of progress and displaying the results of those grants to a wide public.

EPA Project Proposal Evaluation Criteria

EPA will evaluate all applicants based on the following criteria:

—Clearly describes the training and technical assistance that the organization will provide on innovative sustainable approaches taken in a variety of regions across the country to assist communities served by public water systems that have state-identified highly or moderately susceptible source waters. Includes a process for: choosing local communities or areas, evaluating state and local source water assessment information, developing a contamination prevention plan at the

geographic or regional level, assisting communities with innovative approaches or management actions that can be sustained at the community level, and evaluating the approaches used. (50 points)

—Demonstrates knowledge of source water contamination prevention and ability to provide assistance to communities to effectively prevent contamination of their drinking water supplies and address their highest priority needs. (25 points)

—Describes approach to community involvement in source water contamination prevention planning. (20 points)

—Leverages other resources as part of the proposed approach. (5 points)

Application Procedure

Please submit five paper copies of a proposal that includes a narrative work plan and budget that does not exceed 10 single spaced pages, with one-inch margins and 12-point font, stapled in one corner with no binding. You may also include up to 15 pages of supplementary material, such as the resumes and summaries of prior work. Please also submit an electronic copy of the completed proposal to Debra Gutenson at "Gutenson.Debra@epa.gov." After the EPA review, the selected applicant will be asked to submit an SF–424.

Schedule of Activities

This is the estimated schedule of activities for review and award of proposals:

—Day 30: Proposals due 30 days after publication of **Federal Register** notice.

—Day 44: All applicants notified of government review status.

—Day 54: Selected applicant submits a SF–424.

—Day 64: Selected application(s) forwarded to EPA grants office.

—Day 94: Grants processing complete/ Congressional notifications.

Dated: May 15, 2001.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 01–13407 Filed 5–25–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6985–7]

Notice of Meeting of the EPA's Children's Health Protection Advisory Committee (CHPAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the next meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held June 13–15, 2001 at the Hotel Washington, Washington, DC. The CHPAC was created to advise the Environmental Protection Agency in the development of regulations, guidance and policies to address children's environmental health.

DATES: Wednesday, June 13, 2001, Science Work Group meeting only; plenary sessions Thursday, June 14 and Friday, June 15, 2001.

ADDRESSES: Hotel Washington, 515 15th Street, NW., Washington, DC.

Agenda Items: The meetings of the CHPAC are open to the public. The Science and Research Work Group will meet from 9 a.m. to 5 p.m The plenary CHPAC will meet on Thursday, June 14 from 9 a.m. to 5:30 p.m., with a public comment period at 5 p.m., and on Friday, June 15 from 9 a.m. to 12:30 p.m.

The plenary session will open with introductions and a review of the agenda and objectives for the meeting. Agenda items include highlights of the Office of Children's Health Protection (OCHP) activities and a report from the Science Work Group, a discussion on retrospective and continuing priorities of the CHPAC, a panel on EPA national program initiatives in schools, a panel on case examples of EPA regional initiatives in schools, a discussion on next steps concerning EPA initiatives in schools, and an update on EPA's state initiatives on children's environmental health.

FOR FURTHER INFORMATION CONTACT: Contact Paula R. Goode, Office of Children's Health Protection, USEPA, MC 1107A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564–2702, goode.paula@epa.gov.

Dated: May 14, 2001.

Paula R. Goode,

Designated Federal Officer, Children's Health Protection Advisory Committee.

[FR Doc. 01–13415 Filed 5–25–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6985–6]

Notice of Availability for the State, Local, and Tribal Technical Assistance Document for Implementing the Revised Subpart E (Section 112(l)) Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The EPA is making available for the public a technical assistance document to aid State, Local, and Tribal air pollution control agencies (S/L/Ts) in implementing the revised 40 CFR part 63, subpart E provisions. Subpart E, which was originally promulgated in November 1993 and recently revised in September 2000, codifies section 112(l) of the Clean Air Act. Section 112(l) mandates EPA to provide guidance to S/L/Ts for delegating to them the authority to implement and enforce hazardous air pollutant (HAP) standards and requirements of section 112. Congress recognized that some S/L/Ts had developed their own HAP standards and requirements, and therefore, in addition, mandated that EPA develop provisions to allow S/L/Ts to substitute their rules, requirements, and programs, when demonstrated to be as stringent, in lieu of corresponding Federal section 112 requirements.

Prior to the revisions in September 2000 when S/L/Ts began using Subpart E to substitute their rules, requirements, and programs for section 112 HAP requirements and standards, they found the provisions to be inflexible and too burdensome. After meeting with S/L/Ts, EPA agreed to revisit the rule to make it more flexible. After many discussions and public meetings with stakeholders to understand their concerns and issues, providing a draft for their review, and conducting pilot projects with stakeholders in California, EPA proposed the revisions in January 1999. After reviewing the public comments received, EPA resolved to address all stakeholder concerns and provide even more flexibility and authorities to S/L/Ts in the final rulemaking. Because there was extensive revisions from the existing as compared to the final rule, EPA is publishing technical assistance

to aid S/L/Ts in the implementation of the final rule.

FOR FURTHER INFORMATION CONTACT: Thomas Driscoll, Office of Air Quality Planning and Standards, U.S. EPA Region 8, 999 18th Street, Denver, CO 80202–2466, telephone (303) 312–6785 or E-mail driscoll.tom@epa.gov.

SUPPLEMENTARY INFORMATION: A copy of the technical assistance document may be obtained by calling or E-mailing Pamela J. Smith at 919–541–0641 or smith.pam@epa.gov. The technical assistance document may also be downloaded from the Unified Air Toxics Web Site at http://www.epa.gov/ttn/atw/112(l)/112-lpg.html.

Dated: May 10, 2001.

John S. Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 01–13417 Filed 5–25–01–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6984–6]

Voluntary Guide: Waste Transfer Stations: A Manual for Decision-Making

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; release of draft document for public comment.

SUMMARY: EPA, with assistance from the Solid Waste Association of North America Focus Group and the National Environmental Justice Advisory Council Waste Transfer Station Working Group, has developed a draft voluntary guide Waste Transfer Stations: A Manual for Decision-Making (EPA 530–D–01–001). The purpose of the Manual is to promote the use of best practices in transfer station siting, design, and operation to maximize the facilities effectiveness and efficiency, while minimizing their impact on the community. The Manual is designed to assist facility owners and operators; state, local, and tribal environmental managers; and the public evaluate and choose protective practices for the siting, design, and operation of municipal solid waste transfer stations. Before publishing this report in final form, EPA is inviting public comment.

The Manual is divided into four chapters: Introduction, Planning and Siting a Transfer Station, Transfer Station Design and Operation, and Facility Oversight. An appendix provides a quick reference guide and comparative index of all state transfer station regulations, including the applicable regulatory citations. The Manual is designed to complement, not supersede, existing state, local, and tribal solid waste management programs.

A companion citizen's guide, Waste Transfer Stations: Involved Citizens Make the Difference (EPA530–K–01–003), has also been published. This guide is designed to complement the Decision-Making Manual by providing key information citizens need to become involved in the waste transfer station siting, design, and operation decision-making processes. It describes ways in which community members can become actively involved in minimizing a waste transfer station's impact while enhancing its value to the community.

In recent years the nationwide trend in solid waste disposal has been toward the construction of larger, more remote regional landfills. Driving this trend are a number of financial considerations which are heavily influenced by regulatory and social forces. The passing of the federal municipal solid waste landfill criteria in 1991 (Solid Waste Disposal Facility Criteria; Final Rule. 56 FR 50978; October 9, 1991) established new design requirements for municipal waste landfills that significantly add to the construction and operation costs. As older landfills near urban centers reach capacity and begin closing, cities must decide whether to construct new complaint landfills or to seek other disposal options. Many small communities, facing a similar decision, find the cost of upgrading existing facilities or constructing new landfills to be prohibitively high, and opt to close existing facilities. The economies of scale enjoyed by the large remote facilities keeps per ton tipping fees low, which further promotes the practice of long distance waste transfer. For these reasons, many cities and towns are utilizing transfer stations as a component of their waste management system.

DATES: Submit comments on or before August 27, 2001.

ADDRESSES: Commentors must send an original and two copies of their comments referencing docket number F–2001–WTSN–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Hand delivery of comments should be made the RCRA Information Center in Arlington, Virginia at the address below. Comments may also be submitted electronically through the Internet to: *rcra-docket@epa.gov*. Comments in electronic format should also be identified by the docket number F–2001–WTSN–FFFFF. All electronic comments must be submitted as an ASCII file without the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W) U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703–603–9230. The public may copy a maximum of 100 pages from any docket at no charge. Additional copies cost $0.15 per page. The index and some supporting material are available electronically.

The official record for this section will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing.

EPA responses to comments, whether the comments are written or electronic, will be developed during the finalization of the Decision-Making Manual. EPA will not immediately reply to commentors electronically other than to seek clarification of electronic comments that may be garbled during the transmission or during conversion to paper form, as discussed above.

FOR FURTHER INFORMATION CONTACT: For general information and copies of the Decision-Making Manual, contact the RCRA Hotline at 800–424–9346 or TDD 800–553–7672 (heating impaired). In Washington, DC, metropolitan area, call 703–412–9810 or TDD 703–412–3323. A limited number of paper copies of the Decision-Making Manual are available on a first-come first-serve basis. An electronic copy of the Decision-Making Manual in PDF file format can be obtained from the EPA Internet site at: www.epa.gov/epaoswer/non-hw/transfer.

Questions of a technical or policy nature regarding the Decision-Making Manual may also be directed to Steve

Levy at 703–308–7267, or e-mailed to his e-mail address: *levy.steve@epa.gov.*

SUPPLEMENTARY INFORMATION: Copies of the companion citizen's guide, Waste Transfer Stations: Involved Citizens Make the Difference (EPA530–K–01–003), is also available in hardcopy (from the RCRA Hotline) or electronically from the internet site mentioned above.

Thea McManus,

Acting Director, Municipal and Industrial Solid Waste Division, Office of Solid Waste.

[FR Doc. 01–13408 Filed 5–25–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6986–7]

SES Performance Review Board; Membership

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given of the membership of the EPA Performance Review Board.

DATES: May 29, 2001.

FOR FURTHER INFORMATION CONTACT: Karen Stinson, Executive Resources and Special Programs, 3650, Office of Human Resources and Organizational Services, Office of Administration and Resources Management, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (202) 260–1373.

SUPPLEMENTARY INFORMATION: Section 4314 (c)(1) through (5) of Title 5, U.S.C., requires each agency to establish in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. This board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointment authority relative to the performance of the senior executive.

Members of the EPA Performance Review Board are:

Russell L. Wright (Chair), Director, Science and Ecosystem Support Division, Region 4

Jeanette L. Brown, Director, Office of Small and Disadvantaged Business Utilization, Office of the Administrator

Lynda F. Carroll, Assistant Regional Administrator, Region 6

Judy S. Davis, Acting Director, Office of Acquisition Management, Office of Administration and Resources Management

Emmett D. Dashielle, Deputy Assistant IG for Investigations, Office of the Inspector General

Joseph L. Dillon, Acting Comptroller, Office of the Comptroller

Joan Fidler, Director, Office of Management Operations, Office of International Activities

Lisa K. Friedman, Associate General Counsel (Solid Waste & Emergency Response), Office of General Counsel

Ann E. Goode (Ex-Officio), Director, Office of Civil Rights, Office of the Administrator

Geoffrey H. Grubbs, Director, Office of Science and Technology, Office of Water

Walter W. Kovalick, Jr., Director, Technology Innovation Office, Office of Solid Waste and Emergency Response

Henry L. Longest II, Acting Assistant Administrator, Office of Research and Development

Brian J. McLean, Director, Clean Air Markets Division, Office of Air and Radiation

Linda M. Murphy, Director, Office of Ecosystem Protection, Region 1

Eric V. Schaeffer, Director, Office of Regulatory Enforcement, Office of Enforcement and Compliance Assurance

Keith A. Takata, Director, Superfund Division, Region 9

Linda A. Travers, Deputy Director, Office of Technology Operations and Planning, Office of Environmental Information

Marylouise M. Uhlig, Director, Office of Program Management Operations, Office of Prevention, Pesticides and Toxic Substances

Vanessa T. Vu, Associate Director for Health (NCEA), Office of Research and Development

Daiva Balkus (Executive Secretary) Director, Office of Human Resources and Organizational Services, Office of Administration and Resources Management

Members of the Inspector General Subcommittee to the EPA Performance Review Board are:

James E. Henderson, Assistant Inspector General for Investigations, General Services Administration

Richard L. Skinner, Deputy Inspector General, Federal Emergency Management Agency

Joseph Willever, Deputy Inspector General, Office of Personnel Management

Dated: May 18, 2001.

David J. O'Connor,

Acting Assistant Administrator, Office of Administration and Resources Management.

[FR Doc. 01–13418 Filed 5–25–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6984–4]

San Fernando Valley—Glendale Operable Units Superfund Site Proposed Notice of Administrative Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. 9601 *et seq.*, notice is hereby given that a proposed Prospective Purchaser Agreement associated with the San Fernando Valley Crystal Springs (Area 2) Superfund Site—Glendale Operable Units was executed by the United States Environmental Protection Agency ("EPA") on February 12, 2001. The proposed Prospective Purchaser Agreement would resolve certain potential claims of the United States under sections 106 and 107 of CERCLA, 42 U.S.C. 9606, 9607, against Home Depot U.S.A., Inc. (the "Purchaser"). The Purchaser plans to acquire two contiguous parcels located within the Glendale Operable Units, 1200 South Flower Street, Burbank, California and 801 Allen Avenue, Glendale, California for the construction of a Home Depot U.S.A. retail operation. The proposed settlement would require the Purchaser to pay EPA a one-time payment of $200,000.

For thirty (30) calendar days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement. EPA's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105.

DATES: Comments must be submitted on or before June 28, 2001.

Availability: The proposed Prospective Purchaser Agreement and additional background documentation relating to the settlement are available for public inspection at the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105. A copy of the proposed settlement may be obtained from Marie M. Rongone, Senior Counsel (ORC–3), Office of Regional Counsel, U.S. EPA

Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Comments should reference "Home Depot U.S.A. Prospective Purchaser Agreement, San Fernando Valley Superfund Site, Glendale Operable Unit," and "Docket No. 2001–06" and should be addressed to Marie M. Rongone at the above address.

FOR FURTHER INFORMATION CONTACT: Marie M. Rongone, Senior Counsel (ORC–3), Office of Regional Counsel, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; E-mail: *rongone.marie@epa.gov;* Telephone: (415) 744–1313, Facsimile: (415) 744–1041.

Dated: March 6, 2001.

Keith Takata,

Director, Superfund Division, Region IX.

[FR Doc. 01–13411 Filed 5–25–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission to OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. *Organizing an Institutional Investigation Assistance Program: A Feasibility Study*—NEW—A review group charged with examining the Office of Research Integrity's (ORI) role in handling allegations of research misconduct developed numerous recommendations. One of the recommendations stated that "HHS should encourage the development of a consortium-based approach to be used by awardee institutions that do not have the capacity to conduct the fact-finding process, or at which there is otherwise inadequate institutional or organizational capacity." The Office of Research Integrity is proposing a survey of research institutions, educational institutions, and related organizations to assess the level of interest in the development of consortia.

Respondents: Businesses or other for-profit; Non-profit institutions; State or local governments; *Number of Respondents:* 1,000; *Burden per Response:* 20 minutes; *Total Burden:* 333 hours. *OMB Desk Officer:* Allison Herron Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Written comments should be received within 30 days of this notice.

Dated: May 21, 2001.

Kerry Weems,

Acting Deputy Assistant Secretary, Budget.

[FR Doc. 01–13386 Filed 5–25–01; 8:45 am]

BILLING CODE 4150–31–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–01–40]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Cognitive Tuning for Website Promotion—NEW—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC). The mission of the National Institute for Occupational Safety and Health is to promote "safety and health at work for all people through research and prevention." NIOSH is guided by the National Occupational Research Agenda (NORA), which specifies 21 priority areas for occupational safety and health research. One of the NORA priority areas is intervention effectiveness, which includes "information dissemination and health communication practices." This project, in testing the effectiveness of a cognitive tuning instruction in increasing visits to a NIOSH website for children and teenagers, would address the intervention effectiveness priority area.

Cognitive tuning refers to two possible orientations a person may have when exposed to information. One orientation is that of a receiver, who is primarily concerned with understanding the information for its own sake. The other orientation is that of a transmitter, who expects to pass on the information by communicating with others. Unlike the receiver, the transmitter is faced with the demand of using the information in the near future and is likely to be motivated to appear competent and knowledgeable in front of other people when passing on the information. Past research has shown that transmitters, compared to receivers, show more attitude change when given information about issues or persons. Also, the attitude change for transmitters tends to be more persistent than for receivers.

The Elaboration Likelihood Model (ELM) is a theory of attitude change that has achieved much empirical support and has organized a large body of previously fragmented results. The ELM posits that the nature of attitude change depends on whether the person is thinking carefully about the issue at hand. A person thinking about an issue is likely to form an attitude that is persistent, resistant to attack, and predictive of behavior. Conversely, a person who lacks either the motivation or the ability to think carefully about an issue is likely to form an attitude that is transitory, easy to change, and unpredictive of behavior.

It is hypothesized that cognitive tuning influences the motivation to think about an issue. Transmitters should be more motivated than receivers to think about presented information because transmitters expect to pass on the information. This hypothesis will be tested in the context of promoting the NIOSH Safety Zone, a website that introduces children and teenagers to occupational safety and health issues. Four different messages about the website will be sent to high school teachers. The messages will vary whether the teacher is told that other teachers have been sent the letter (i.e., whether the teacher is given a transmitter orientation). The messages will also vary the quality of the arguments (strong arguments vs. weak arguments for visiting the website). A subset of the teachers will later be contacted by telephone to answer questions about their attitudes toward the website and whether they intend to visit it. Website hits will be recorded for all teachers in the study, such that teachers receiving different messages will be directed to different entry pages with independent hit counters. Teachers who get transmitter messages should be more influenced by the quality of the arguments than teachers who get receiver messages.

Prior to the study, pretesting sessions will be conducted with high school teachers in or near the Morgantown, WV area. The pretesting will insure that strong arguments and weak arguments differ in the kinds of thoughts elicited from teachers. Strong arguments should elicit more positive thoughts toward visiting the NIOSH website than weak arguments.

If the results support predictions, cognitive tuning will be a promising communication intervention that may be applied across a wide range of occupational safety and health issues. Simply by emphasizing the possibility that occupational safety and health information may be useful in future social interaction with others, a message may motivate people to think carefully about an issue and thus form a more lasting attitude that will influence how they behave. At an median wage of $20.00 per hour, the total cost to respondents will be $5,066.60.

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden in hours
High School Teachers (pretest)	120	1	1	120.00
High School Teachers (phone contact)	800	1	1⁹⁄₆₀	133.33
Total				253.33

Dated: May 15, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–13319 Filed 5–25–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–01–38]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Data Collection, Management, Reporting, and Evaluation for the National Minority AIDS Initiative (NMAI) to be conducted from 2001 to 2005—New—National Center for HIV, STD, and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC). The purpose of this request is to obtain OMB clearance to collect primary and secondary data to assess the HIV prevention and capacity-building activities of community-based organizations (CBOs) and other not-for-profit organizations funded under the NMAI. The objective of the NMAI is to implement an approach to HIV Prevention for communities of color through three strategies: Support of CBOs to deliver HIV prevention services; community coalition development projects to increase access to a linked network of HIV, STD, TB, and substance abuse services; and capacity-building assistance (CBA) (which includes a Faith-Based component) to sustain, improve, and expand HIV prevention services.

The CDC requires NMAI grantees to evaluate their programs. CDC has the responsibility to support these evaluation efforts by assisting grantees in the design and implementation of their program evaluation activities, including the provision of evaluation forms and conducting an overall evaluation of the NMAI. The data collected during this evaluation will allow CDC to (1) address accountability needs, (2) provide necessary information to the NMAI grantees for improving their programs, and (3) provide a context for understanding the effectiveness of programs targeting African Americans and other racial and ethnic minorities.

Data collection will include self-administered questionnaires, document reviews, and interviews with directors of CBOs (or their representatives) and other collaborating organizations. The first phase of data collection is planned for the fall of 2001. Subsequent phases of data collection are planned for 2002, 2003, and 2004, with data collection culminating by the summer of 2005. Self-administered questionnaires will be submitted annually. Interviews will be conducted at 24, 36, and 48 months

from the start of the project. The total cost to respondents is estimated at $30,080, assuming an average working wage for assigned personnel at $20.00 per hour in the study period.

Respondents	Number of respondents	Number of responses per respondent	Average burden response (in hrs.)	Total burden per response (in hrs.)
CBO General Questionnaire	79	4	1	316
CBO Needs Assessment & Epi Profile Questionnaire	79	4	20/60	105
CBO Staffing Plan Questionnaire	79	4	40/60	211
CBO Cultural, Linguistic, and Educational Appropriateness Questionnaire	79	4	10/60	53
CBO Interview Schedule	79	3	2	474
CBA Program Plan	16	4	15/60	16
CBA Needs Assessment Questionnaire	16	4	20/60	21
CBA Staffing Plan Questionnaire	16	4	40/60	43
CBA Cultural, Linguistic, and Educational Appropriateness Questionnaire	16	4	10/60	11
CBA Resource Networks and Community Advisory Board Questionnaire	16	4	20/60	21
Provision of Capacity-Building Assistance Questionnaire	16	4	2	128
CBA Interview Schedule	16	3	2	96
Faith-Based Needs Assessment Questionnaire	1	4	20/60	1
Faith-Based General Questionnaire	1	1	1	1
Faith-Based Staffing Plan Questionnaire	1	4	40/60	3
Faith-Based Cultural, Linguistic, and Educational Appropriateness Questionnaire	1	4	10/60	1
Faith-Based Curriculum Development and Training Program Interview Schedule	1	3	1	3
Total				1504

Dated: May 11, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–13320 Filed 5–25–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–01–41]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Report of Verified Cases of Tuberculosis (RVCT) OMB No. 0920–0026—Extension—The National Center for HIV, STD, and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC) proposes to continue data collection for the Report of Verified Case of Tuberculosis (RVCT). This request is for a 1-year extension of clearance.

To accomplish the CDC goal of eliminating tuberculosis (TB) in the United States, CDC maintains the national TB surveillance system. The system, initiated in 1953, has been modified several times to better monitor and respond to changes in TB morbidity. The most recent modification was implemented in 1993 when the RVCT was expanded in response to the TB epidemic of the late 1980s and early 1990s and incorporated into a CDC software for electronic reporting of TB case reports to CDC. The expanded system improved the ability of CDC to monitor important aspects of TB epidemiology in the United States, including drug resistance, TB risk factors, including HIV coinfection, and treatment. The timely system also enabled CDC to monitor the recovery of the nation from the resurgence and identify that current TB epidemiology supports the renewed national goal of elimination. To measure progress in achieving this goal, as well as continue to monitor TB trends and potential TB outbreaks, identify high risk populations for TB, and gauge program performance, CDC proposes to extend use of the RVCT.

Data are collected by 60 Reporting Areas (the 50 states, the District of Columbia, New York City, Puerto Rico, and 7 jurisdictions in the Pacific and Caribbean) using the RVCT. An RVCT is completed for each reported TB case and contains demographic, clinical, and laboratory information. A comprehensive software package, the Tuberculosis Information Management System (TIMS) is used for RVCT data entry and electronic transmission of TB case reports to CDC. TIMS provides reports, query functions, and export functions to assist in analysis of the data. CDC publishes an annual report summarizing national TB statistics and also periodically conducts special analyses for publication in peer-reviewed scientific journals to further describe and interpret national TB data. These data assist public health officials

and policy makers in program planning, evaluation, and resource allocation. Reporting Areas also review and analyze their RVCT data to monitor local TB trends, evaluate program success, and assist in focusing resources to eliminate TB.

No other federal agency collects this type of national TB data. In addition to providing technical assistance for use of the RVCT, CDC also provides Reporting Areas with technical support for the TIMS software. There are no costs to respondents.

Respondents	Number of respondents	Number of responses	Average burden per response (in hours)	Total burden in hours
State & Local Health Departments	60	280	30/60	8,400

Dated: May 18, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–13321 Filed 5–25–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–01–42]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Formative Research and Evaluation of CDC Youth Media Campaign—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

In FY 2001, Congress established the Youth Media Campaign at the Centers for Disease Control and Prevention. Specifically, the House Appropriations Language said: The Committee believes that, if we are to have a positive impact on the future health of the American population, we must change the behaviors of our children and young adults by reaching them with important health messages. CDC, working in collaboration with the Health Resources and Services Administration (HRSA), the National Center for Child Health and Human Development (NICHD), and the Substance Abuse and Mental Health Services Administration (SAMHSA), is coordinating an effort to plan, implement, and evaluate a campaign designed to clearly communicate messages that will help kids develop habits that foster good health over a lifetime. The Campaign will be based on principles that have been shown to enhance success, including: designing messages based on research; testing messages with the intended audiences; involving young people in all aspects of Campaign planning and implementation; enlisting the involvement and support of parents and other influencers; tracking the Campaign's effectiveness and revising Campaign messages and strategies as needed.

For the Campaign to be successful, a thorough understanding of tweens (youth ages 9–13), the health behaviors promoted, and the barriers and motivations for adopting and sustaining them is essential. Additionally, a thorough understanding of those who can influence the health behaviors of tweens is important. This understanding will facilitate the development of messages, strategies, and tactics that resonate with tweens, parents and other influencers.

Research for the national and minority audience components of the Youth Media Campaign will identify the target audience(s) using standard market research techniques and will address geographic and demographic diversity to the extent necessary to assure appropriate audience representation. This audience research may include, but not be limited to, intercept interviews, theater testing, expert reviews, in-depth interviews, pilot/field tests/partial launches, internet questionnaires, telephone interviews, and mail questionnaires with various audiences (tweens, ages 9–13; parents; adult influencers; older teen influencers; and partners/alliances). In addition, panels or reoccurring focus groups of tweens and parents will convene to generate on-going feedback to the Campaign. The panels will suggest ideas, review creative executions, and provide feedback on what works and what does not work.

The intent of this audience research is to solicit input and feedback from audiences on a national level and from audiences within targeted populations. Information gathered from both audiences will be used to modify/refine and/or revise Campaign messages and strategies and evaluate Campaign effectiveness.

Respondents	Number of respondents	Number of responses/ respondent	Average burden per response (in hours)	Total burden in hours
Tweens (ages 9–13)	30,000	1	15/60	7,500
Reoccurring tween panel(s)	40	4	2	320

Respondents	Number of respondents	Number of responses/ respondent	Average burden per response (in hours)	Total burden in hours
Parents	15,000	1	15/60	3,750
Reoccurring parent panel(s)	40	4	2	320
Adult influencers	10,000	1	15/60	2,500
Older tween influencers	5,000	1	15/60	1,250
Partners/alliances	500	2	30/60	500
Total				16,140

Dated: May 18, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–13322 Filed 5–25–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01128]

Strengthening Emergency Medical Preparedness in Tanzania; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for "Strengthening Emergency Medical Preparedness in Tanzania." This program addresses the "Healthy People 2010" focus areas: Public Health Infrastructure; Access to Quality Health Services; and Educational and Community-Based Programs.

The purpose of the program is to initiate a sustainable curriculum for post-graduate emergency medical training in Tanzania. Tanzanian care-providers and instructors will be trained involving the fundamentals of essential emergency medical care and equipment. This program is being performed specifically in Tanzania according to US Congressional mandate for Department of State, US Agency for International Development (USAID) implementation in response to the 1998 bombing of the US embassy in Tanzania.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit and for-profit organizations, State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations, and small, minority, or women-owned businesses.

To be an eligible applicant you must provide evidence of the following:

1. Copies of certificates from the American Board of Emergency Medicine documenting current specialty board certification for the practice of emergency medicine for all educational staff.

2. Copies of letters of reference from prior implementing partners (including at minimum the funding institution contract officer and a key implementing representative from the host nation) documenting successful project completion in the provision of post-graduate emergency medical training among African nations.

3. A copy of documentation verifying current accreditation of the applicant institution by the Accreditation Council of Graduate Medical Education for provision of post-graduate medical training in the specialty of emergency medicine.

This information should be placed after the face page of the application. Any application that does not provide the above information will be determined non-responsive and returned without review.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $150,000 is available in FY 2001 to fund one award. It is expected that the award will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to 2 years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Develop two curriculum components (one for training physicians and one for nurses) regarding emergency and disaster medicine in Tanzania.

b. Train approximately 20–30 medicine and nursing educators in conducting the courses. These educators should be from, but are not limited to: The Muhimbili University College of Health Sciences (MUCHS) or other sites in Dar es Salaam and other Tanzanian health institutions (located in Moshi, Mbeya, Mwanza, Kigoma, Dodoma, Morogoro and Kibaha).

c. Facilitate and evaluate these 20–30 newly-trained educators in conducting this course for students at MUCHS or other sites.

d. Develop and conduct in-service training for medical and nursing staff at the health institutions using the procured materials in an emergency medical and/or mass casualty situation.

e. Develop a project operational plan. This plan should at a minimum include: curriculum format and content, descriptions of all media to be used, time-lines for all planning and educational meetings, curriculum vitae of all personnel, expected outcomes and indicators of completion.

2. CDC Activities

a. Provide consultation and assistance in planning and implementing program activities.

b. Provide science-based collaboration and technical assistance in developing and implementing evaluation strategies for the program.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the

criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than twenty double-spaced pages, printed on one side, with one inch margins, and unreduced font. The narrative must consist of, at a minimum, a Plan, Objectives, Methods, Evaluation and Budget. Provide a detailed budget and justification based on the funds available.

F. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available at the following Internet address: www.cdc.gov or in the application kit. On or before July 27, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria

The application will be evaluated against the following criteria by an independent review group appointed by CDC.

1. Understanding the Project (10 points)

a. Demonstrated clarity, feasibility and practicality of the proposed plan to accomplish this project.

b. Demonstrated recognition of the potential difficulties in performance and appropriateness and soundness of proposed solutions.

2. Methodology and Approach (20 points)

a. Provide evidence of demonstrated expertise in methodology for development and successful implementation of "train-the-trainers" educational programming.

b. Provide evidence of demonstrated successful experience in developing nations using an educational approach that utilizes "hands-on" clinical teaching as well as lecture-based, didactic instruction.

3. Staff Experience and Capability (20 points)

a. Provide evidence of a demonstrated adequate depth of staffing to include contributions from at least four different board-certified emergency physicians to be assigned for implementation of this project.

b. Provide evidence of demonstrated technical expertise and professional experience of staff in the clinical practice of emergency medicine under austere conditions of an African nation.

4. Scientific or Technical Approach (30 points)

a. Provide evidence of demonstrated scientific expertise involving programs for the promotion of public health in Africa.

b. Provide evidence of demonstrated technical expertise in developing medical education to include training methods that are culturally and technological appropriate to sub Saharan Africa.

c. Provide evidence of demonstrated technical expertise in developing medical education to include concepts of disaster medicine such as triage, incident management systems, communication and casualty care.

5. Cultural Knowledge Requirements (20 points)

a. Provide evidence of demonstrated successful experience as a consultant in sub Saharan African countries.

b. Provide evidence of an existing relationship with the Ministry of Health of Tanzania or with the Ministry of Health of another sub Saharan African nation.

6. Budget Justification (not scored)

The extent to which the budget is clearly explained, adequately justified, and is reasonable and consistent with the stated objectives and planned activities.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Progress reports semi-annually.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–7 Executive Order 12372 Review
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements
AR–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301 and 307 of the Public Health Service Act, [42 U.S.C. sections 241 and 242], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov Click on "Funding" then "Grants and Cooperative Agreements."

To receive additional written information and to request an application kit, call 1–888-GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Program Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from:

Michael Smiley, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2694, Email address: znr6@cdc.gov

For program technical assistance, contact: Mark Keim, M.D., Emergency Preparedness and Response Branch, National Center for Environmental Health, Centers for Disease Control and Prevention, 4770 Buford Highway, NE (F–38), Atlanta, GA 30341–3724, Telephone number: 770–488–4597, Email address: mjk9@cdc.gov

Dated: May 22, 2001.

Henry S. Cassell III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–13376 Filed 5–25–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Head Start Program Information Report (PIR).

OMB No.: 0980–0017.

Description: The Head Start Act requires that actual population and services data be collected from Head Start and Early Head Start grantees and delegate agencies. The Head Start Program Information Report (PIR) is the primary tool for collecting information in the areas of program management, services provided, and the demographics of the children enrolled and their families. The principle users of the data include local program management, ACF Regional Office staff, and ACYF Central Office staff. The information is disseminated widely to other interested parties, including Congress, policy makers at the State level, training and technical assistance providers, and researchers.

Respondents: Head Start grantees and delegate agencies; Early Head Start grantees and delegate agencies.

Annual Burden Estimate:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
PIR	2437	1	4	9748

Estimated Total Annual Burden Hours: 9748.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: May 22, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–13317 Filed 5–25–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Study of the TANF Application Process.

OMB No.: New Collection.

Description: The Study of the TANF Application Process is designed to provide systematic information about how application policies and processes have changed under TANF, and how States define and count applications and application results. The Study will also explore how application policies are implemented in a sample of local TANF offices and will collect data on individuals' application decisions, experiences, and outcomes. In addition, the Study will also collect information on the availability and quality of State-collected data on the TANF application process. The primary purpose of this Study is to provide useful information to be considered in the upcoming TANF reauthorization process and provide applicant information as required by 42 U.S.C. 611(b)(2).

Respondents: The respondents for the Mail Questionnaire are the 50 States, the District of Columbia, and the U.S. Territories of Guam, Puerto Rico, and the Virgin Islands. Eighteen States will be respondents to the State Telephone Survey, 54 individuals for the Open-ended Interviews for Case Studies, six States for Case Abstractions, and 1200 individuals for the Follow-up Telephone Interviews with Applications and Non-applicants.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
18-State Telephone Survey	18	1	3	54
54-State Mail Questionaire	54	1	6	324
Open-ended interview for Case Studies	54	1	1.5	81
Follow-up Telephone Interview with Applicants and Non-applicants	1200	1	.33	396
Case abstractions-pulling case files for contractor review and abstraction	6	1	20	120
Estimated Total Annual Burden Hours				975

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the

collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF.

Dated: May 22, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–13318 Filed 5–25–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0231]

Agency Information Collection Activities; Proposed Collection; Comment Request; Veterinary Adverse Drug Reaction, Lack of Effectiveness, Product Defect Report

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting and recordkeeping requirements obligating holders of approved new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs) to submit information on adverse drug reactions, lack of effectiveness, and product defects.

DATES: Submit written or electronic comments on the collection of information by July 30, 2001.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: Under the PRA, (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506 (c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2) (A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information including each proposed reinstatement of an existing collection before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Veterinary Adverse Drug Reaction, Lack of Effectiveness, Product Defect Report—21 CFR Part 510 (OMB Control No. 0910–0012)—Extension

Section 512(l) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(l)), 21 CFR 510.300, 510.301, and 510.302 require that applicants of approved NADAs submit within 15 working days of receipt, complete records of reports of certain adverse drug reactions and unusual failure of new animal drugs. Other reporting requirements of adverse reactions to these drugs must be reported annually or semiannually in a specific format.

This continuous monitoring of approved new animal drugs affords the primary means by which FDA obtains information regarding potential problems in safety and effectiveness of marketed animal drugs and potential manufacturing problems. Data already on file with FDA is not adequate because animal drug effects can change over time and less apparent effects may take years to manifest themselves. Reports are reviewed along with those previously submitted for a particular drug to determine if any change is needed in the product or labeling, such as package insert changes, dosage changes, additional warnings or contraindications, or product reformulation.

Adverse reaction reports are required to be submitted by the drug manufacturer on FDA forms 1932 or 1932a (voluntary reporting form), following complaints from animal owners or veterinarians. Product defects and lack of effectiveness complaints are submitted to FDA by the drug manufacturer following their own detection of a problem or complaints from product users or their veterinarians also using FDA forms 1932 and 1932a. FDA form 2301 is available for the required transmittal of periodic reports and promotional material for new animal drugs. Respondents to this collection of information are applicants of approved NADAs.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Form No.	21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Form FDA 2301	510.302(a)	190	13.16	2,500	0.5	1,250
Form FDA 1932	510.302(b)	190	94.74	18,000	1.0	18,000

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

Form No.	21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Form FDA 1932a (voluntary)	510.302(b)	100	1.0	100	1.0	100
Total burden hours						19,350

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Response per Recordkeeper	Hours per Recordkeeper	Total Hours
510.300(a) and 510.301(a)	190	13.16	2,500	10.35	25,875
510.300(b) and 510.301(b)	190	94.74	2,900	0.50	9,000
Total burden hours					34,875

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimate of the times required for record preparation and maintenance is based on agency communication with industry. Other information needed to calculate the total burden hours (i.e., adverse drug reaction, lack of effectiveness, and product defect reports) are derived from agency records and experience.

Dated: May 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–13298 Filed 5–25–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0222]

Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Devices; Third-Party Review Under FDAMA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection requirements for medical devices; third-party review under the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: Submit written or electronic comments on the collection of information by July 30, 2001.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Medical Devices; Third-Party Review Under FDAMA (OMB Control No. 0910–0375)—Extension

Section 210 of FDAMA established a new section 523 of the Federal Food, Drug, and Cosmetic Act (the act), directing FDA to accredit persons in the private sector to review certain premarket applications and notifications. As with the third-party pilot program conducted previously by FDA, participation in this third-party review program by accredited persons is entirely voluntary. A third party wishing to participate will submit a request for accreditation. Accredited third-party reviewers have the ability to review a manufacturer's 510(k)

submission for selected devices. After reviewing a submission, the reviewer will forward a copy of the 510(k) submission, along with the reviewer's documented review and recommendation, to FDA. Third-party reviews should maintain records of their 510(k) reviews and a copy of the 510(k) for a reasonable period of time. This information collection will allow FDA to continue to implement the accredited person review program established by FDAMA and improve the efficiency of 510(k) review for low to moderate risk devices.

Respondents to this information collection are businesses or other for-profit organizations.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

Item	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Requests for accreditation	40	1	40	24	960
510(k) reviews conducted by accredited third parties	35	4	140	40	5,600
Total					6,560

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Item	No. of Recordkeepers	Annual Frequency per Recordkeeper	Total Annual Records	Hours per Recordkeeper	Total Hours
510(k) reviews	35	4	140	10	1,400
Total					1,400

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burdens are explained as follows:

1. Reporting

a. *Requests for accreditation.* Under the agency's third-party review pilot program, the agency received 37 applications for recognition as third-party reviewers, of which the agency recognized 7. Under this expanded program, the agency anticipates that it will not see a significant increase in the number of applicants. Therefore, the agency is estimating that it will receive 40 applications. The agency anticipates that it will accredit 35 of the applicants to conduct third-party reviews.

b. *510(k) reviews conducted by accredited third parties.* In the 18 months under the third-party review pilot program, FDA received only 22 510(k)s that requested and were eligible for review by third parties. Because the third-party review program is not as limited in time, and is expanded in scope, the agency anticipates that the number of 510(k)s submitted for third-party review will remain the same as they were during the last OMB approval in 1998. The agency anticipates that it will receive approximately 140 third-party review submissions annually, i.e., approximately 4 annual reviews per each of the estimated 35 accredited reviewers.

2. Recordkeeping

Third-party reviewers are required to keep records of their review of each submission. The agency anticipates approximately 140 annual submissions of 510(k)s for third-party review.

The estimate of the times required for record preparation and maintenance is based on agency communication with industry. Other information needed to calculate the total burden hours (i.e., adverse drug reaction, lack of effectiveness, and product defect reports) are derived from agency records and experience.

Dated: May 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–13301 Filed 5–25–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0205]

Agency Information Collection Activities; Proposed Collection; Comment Request; Applications for FDA Approval to Market a New Drug

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on requirements governing applications for FDA approval to market a new drug.

DATES: Submit written or electronic comments on the collection of information by July 30, 2001.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget

(OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Applications for FDA Approval to Market a New Drug—21 CFR Part 314 (OMB Control Number 0910–0001)—Extension

Under section 505(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(a)), a new drug may not be commercially marketed in the United States, imported, or exported from the United States, unless an approval of an application filed with FDA under section 505(b) or (j) of the act is effective with respect to such drug. Section 505(b) and (j) of the act requires a sponsor to submit to FDA a new drug application (NDA) containing, among other things, full reports of investigations that show whether or not the drug is safe and effective for use, a full list of articles used as components in the drug, a full description of manufacturing methods, samples of the drugs required, specimens of the labeling proposed to be used, and certain patent information as applicable. Under the act, it is the sponsor's responsibility to provide the information needed by FDA to make a scientific and technical determination that the product is safe and effective.

This information collection approval request is for all information requirements imposed on sponsors by the regulations under part 314 (21 CFR part 314), who apply for approval of a NDA in order to market or to continue to market a drug.

Section 314.50(a) requires that an application form (Form FDA 356h) be submitted that includes introductory information about the drug as well as a checklist of enclosures.

Section 314.50(b) requires that an index be submitted with the archival copy of the application and that it reference certain sections of the application.

Section 314.50(c) requires that a summary of the application be submitted that presents a good general synopsis of all the technical sections and other information in the application.

Section 314.50(d) requires that the NDA contain the following technical sections about the new drug: Chemistry, manufacturing, and controls; nonclinical pharmacology and toxicology; human pharmacokinetics and bioavailability; microbiology; clinical data; and statistical section.

Section 314.50(e) requires the applicant to submit samples of the drug if requested by FDA. In addition, the archival copy of the application must include copies of the label and all labeling for the drug.

Section 314.50(f) requires that case report forms and tabulations be submitted with the archival copy.

Section 314.50(h) requires that patent information, as described under § 314.53, be submitted with the application.

Section 314.50(i) requires that patent certification information be submitted in section 505(b)(2) of the act applications for patents claiming the drug, drug product, method of use, or method of manufacturing.

Section 314.50(j) requires that applicants that request a period of marketing exclusivity submit certain information with the application.

Section 314.50(k) requires that an archival, review, and field copy of the application be submitted.

Section 314.52 requires that notice of certification of invalidity or noninfringement of a patent to patent holders and NDA holders be sent by section 505(b)(2) of the act applicants.

Section 314.54 sets forth the content requirements for applications filed under section 505(b)(2) of the act.

Section 314.60 sets forth reporting requirements for sponsors who amend an unapproved application.

Section 314.65 states that the sponsor must notify FDA when withdrawing an unapproved application.

Sections 314.70 and 314.71 require that supplements be submitted to FDA for certain changes to an approved application.

Section 314.72 requires sponsors to report to FDA any transfer of ownership of an application.

Section 314.80(c)(1) and (c)(2) sets forth requirements for expedited adverse drug experience postmarketing reports and followup reports, as well as for periodic adverse drug experience postmarketing reports (Form FDA 3500A). (The burden hours for § 314.80(c)(1) and (c)(2) are already approved by OMB under 0910–0230 and 0910–0291 and are not included in the hour burden estimates in table 1 of this document).

Section 314.80(i) establishes recordkeeping requirements for reports of postmarketing adverse drug experiences. (The burden hours for § 314.80(i) are already approved by OMB under 0910–0230 and 0910–0291 and are not included in the hour burden estimates in table 1 of this document).

Section 314.81(b)(1) requires that field alert reports be submitted to FDA (Form FDA 3331).

Section 314.81(b)(2) requires that annual reports be submitted to FDA (Form FDA 2252).

Section 314.81(b)(3)(i) requires that drug advertisements and promotional labeling be submitted to FDA (Form FDA 2253).

Section 314.81(b)(3)(iii) sets forth reporting requirements for sponsors who withdraw an approved drug product from sale. (The burden hours for § 314.81(b)(3)(iii) are already approved by OMB under 0910–0045 and are not included in the hour burden estimates in table 1 of this document).

Section 314.90 sets forth requirements for sponsors who request waivers from FDA for compliance with §§ 314.50 through 314.81. (The information collection hour burden estimate for NDA waiver requests is included in table 1 of this document under estimates for §§ 314.50, 314.60, 314.70, and 314.71).

Section 314.93 sets forth requirements for submitting a suitability petition in accordance with 21 CFR 10.20 and 10.30. (The burden hours for § 314.93 are already approved by OMB under 0910–0183 and are not included in the hour burden estimates in table 1 of this document).

Section 314.94(a) and (d) requires that an abbreviated new drug application (ANDA) contain the following information: Application form; table of contents; basis for ANDA submission; conditions of use; active ingredients; route of administration, dosage form, and strength; bioequivalence; labeling; chemistry, manufacturing, and controls; samples; patent certification.

Section 314.95 requires that notice of certification of invalidity or noninfringement of a patent to patent holders and NDA holders be sent by ANDA applicants.

Section 314.96 sets forth requirements for amendments to an unapproved ANDA.

Section 314.97 sets forth requirements for submitting supplements to an approved ANDA for changes that require FDA approval.

Section 314.98(a) sets forth postmarketing adverse drug experience reporting and recordkeeping requirements for ANDAs. (The burden hours for § 314.98(a) are already approved by OMB under 0910–0230 and 0910–0291 and are not included in the hour burden estimates in table 1 of this document).

Section 314.98(c) requires other postmarketing reports for ANDAs: Field alert reports (Form FDA 3331), annual reports (Form FDA 2252), and advertisements and promotional labeling (Form FDA 2253). (The information collection hour burden estimate for field alert reports is included in table 1 of this document under § 314.81(b)(1); the estimate for annual reports is included under § 314.81(b)(2); the estimate for advertisements and promotional labeling is included under § 314.81(b)(3)(i)).

Section 314.99(a) requires that sponsors comply with certain reporting requirements for withdrawing an unapproved ANDA and for a change in ownership of an ANDA.

Section 314.99(b) sets forth requirements for sponsors who request waivers from FDA for compliance with §§ 314.92 through 314.99. (The information collection hour burden estimate for ANDA waiver requests is included in table 1 of this document under estimates for §§ 314.94(a) and (d), 314.96, and 314.97).

Section 314.101(a) states that if FDA refuses to file an application, the applicant may request an informal conference with FDA and request that the application be filed over protest.

Section 314.107(c)(4) requires notice to FDA by ANDA or section 505(b)(2) of the act application holders of any legal action concerning patent infringement.

Section 314.107(e)(2)(iv) requires that an applicant submit a copy of the entry of the order or judgment to FDA within 10 working days of a final judgment.

Section 314.107(f) requires that ANDA or section 505(b)(2) of the act applicants notify FDA of the filing of any legal action filed within 45 days of receipt of the notice of certification. A patent owner may also notify FDA of the filing of any legal action for patent infringement. The patent owner or approved application holder who is an exclusive patent licensee must submit to FDA a waiver that waives the opportunity to file a legal action for patent infringement.

Section 314.110(a)(3) and (a)(4) states that, after receipt of an FDA approvable letter, an applicant may request an opportunity for a hearing on the question of whether there are grounds for denying approval of the application. (The burden hours for § 314.110(a)(3) and (a)(4) are included under the parts 10 through 16 (21 CFR part 10 through 16) hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.110(a)(5) states that, after receipt of an approvable letter, an applicant may notify FDA that it agrees to an extension of the review period so that it can determine whether to respond further.

Section 314.110(b) states that, after receipt of an approvable letter, an ANDA applicant may request an opportunity for a hearing on the question of whether there are grounds for denying approval of the application. (The burden hours for § 314.110(b) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.120(a)(3) states that, after receipt of a not approvable letter, an applicant may request an opportunity for a hearing on the question of whether there are grounds for denying approval of the application. (The burden hours for § 314.120(a)(3) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.120(a)(5) states that, after receipt of a not approvable letter, an applicant may notify FDA that it agrees to an extension of the review period so that it can determine whether to respond further.

Section 314.122(a) requires that an ANDA or a suitability petition that relies on a listed drug that has been voluntarily withdrawn from sale must be accompanied by a petition seeking a determination whether the drug was withdrawn for safety or effectiveness reasons. (The burden hours for § 314.122(a) are already approved by OMB under 0910–0183 and are not included in the hour burden estimates in table 1 of this document).

Section 314.122(d) sets forth requirements for relisting petitions for unlisted discontinued products. (The burden hours for § 314.122(d) are already approved by OMB under 0910–0183 and are not included in the hour burden estimates in table 1 of this document).

Section 314.126(c) sets forth requirements for a petition to waive criteria for adequate and well-controlled studies. (The burden hours for § 314.126(c) are already approved by OMB under 0910–0183 and are not included in the hour burden estimates in table 1 of this document).

Section 314.151(a) and (b) sets forth requirements for the withdrawal of approval of an ANDA and the applicant's opportunity for a hearing and submission of comments. (The burden hours for § 314.151(a) and (b) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.151(c) sets forth the requirements for withdrawal of approval of an ANDA and the applicant's opportunity to submit written objections and participate in a limited oral hearing. (The burden hours for § 314.151(c) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.152(b) sets forth the requirements for suspension of an ANDA when the listed drug is voluntarily withdrawn for safety and effectiveness reasons, and the applicant's opportunity to present comments and participate in a limited oral hearing. (The burden hours for § 314.152(b) is included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and is not included in the hour burden estimates in table 1 of this document).

Section 314.161(b) and (e) sets forth the requirements for submitting a petition to determine whether a listed drug was voluntarily withdrawn from sale for safety or effectiveness reasons. (The burden hours for § 314.161(b) and (e) are already approved by OMB under 0910–0183 and are not included in the

hour burden estimates in table 1 of this document).

Section 314.200(c), (d), and (e) requires that applicants or others subject to a notice of opportunity for a hearing who wish to participate in a hearing file a written notice of participation and request for a hearing as well as the studies, data, and so forth, relied on. Other interested persons may also submit comments on the notice. This section also sets forth the content and format requirements for the applicants' submission in response to notice of opportunity for hearing. (The burden hours for § 314.200(c), (d), and (e) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.200(f) states that participants in a hearing may make a motion to the presiding officer for the inclusion of certain issues in the hearing. (The burden hours for § 314.200(f) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.200(g) states that a person who responds to a proposed order from FDA denying a request for a hearing provide sufficient data, information, and analysis to demonstrate that there is a genuine and substantial issue of fact that justifies a hearing. (The burden hours for § 314.200(g) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and is not included in the hour burden estimates in table 1 of this document.)

Section 314.420 states that an applicant may submit to FDA a drug master file in support of an application, in accordance with certain content and format requirements.

Section 21 CFR 314.430 states that data and information in an application are disclosable under certain conditions, unless the applicant shows that extraordinary circumstances exist. (The burden hours for § 314.530 is included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and is not included in the hour burden estimates in table 1 of this document).

Section 314.530(c) and (e) states that, if FDA withdraws approval of a drug approved under the accelerated approval procedures, the applicant has the opportunity to request a hearing and submit data and information. (The burden hours for § 314.530(c) and (e) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.530(f) requires that an applicant first submit a petition for stay of action before requesting an order from a court for a stay of action pending review. (The burden hours for § 314.530(f) are already approved by OMB under 0910–0194 and are not included in the hour burden estimates in table 1 of this document).

Respondents to this collection of information are all persons who submit an application or abbreviated application or an amendment or supplement to FDA under part 314 to obtain approval of a new drug, and any person who owns an approved application or abbreviated application.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section; [Form Number]	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
314.50(a), (b), (c), (d), (e), (f), (h), and (k)	71	1.55	110	1,666	183,260
314.50() and 314.94(a)(12)	97	3.4	331	2	662
314.50(j)	92	2.7	250	2	500
314.52 and 314.95	37	2	75	16	1,200
314.54	11	1	11	300	3,300
314.60	125	19.92	2,490	80	199,200
314.65	29	1.24	36	2	72
314.70 and 314.71	204	11.54	2,354	300	706,200
314.72	70	2.90	205	2	410
314.81(b)(1) [3331]	82	3.43	281	8	2,248
314.81(b)(2) [2252]	600	12.66	7,597	40	303,880
314.81(b)(3)() [2253]	196	2.42	475	2	950
314.94(a) and (d)	125	2.92	365	480	175,200
314.96	225	7.25	1,631	80	130,480
314.97	175	17.44	3,052	80	244,160
314.99(a)	45	8.88	400	2	800
314.101(a)	6	1	6	.50	3
314.107(c)(4), (e)(2)(v), and (f)	34	2	71	1	71
314.110(a)(5)	50	1.66	83	.50	41.5
314.120(a)(5)	22	1.04	23	.50	11.5
314.420	462	1.1	514	61	31,354
Total					1,984,003

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 18, 2001.
Margaret M. Dotzel,
Associate Commissioner for Policy.
[FR Doc. 01–13303 Filed 5–25–01; 8:45 am]
BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–0084]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Guidance for Industry on Special Protocol Assessment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (PRA).

DATES: Submit written comments on the collection of information by June 28, 2001.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION:

I. Background

In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Guidance for Industry on Special Protocol Assessment

FDA is issuing a guidance on agency procedures to evaluate issues related to the adequacy of certain proposed studies. The guidance describes procedures for sponsors to request special protocol assessment and for the agency to act on such requests. The guidance provides information on how the agency will interpret and apply provisions of the Food and Drug Administration Modernization Act of 1997 and the specific Prescription Drug User Fee Act of 1992 (PDUFA) goals for special protocol assessment associated with the development and review of PDUFA products.

The guidance describes two collections of information: (1) The submission of a notice of intent to request special protocol assessment of a carcinogenicity protocol, and (2) the submission of a request for special protocol assessment.

II. Notification for a Carcinogenicity Protocol

As described in the guidance, a sponsor interested in agency assessment of a carcinogenicity protocol should notify the appropriate division in FDA's Center for Drug Evaluation and Research (CDER) or Center for Biologics Evaluation and Research (CBER) of an intent to request special protocol assessment at least 30 days prior to submitting the request. With such notification, the sponsor should submit relevant background information so that the agency may review reference material related to carcinogenicity protocol design prior to receiving the carcinogenicity protocol. The agency is currently drafting a separate guidance describing the type of information that would be appropriate to submit before requesting carcinogenicity protocol assessment.

III. Request for Special Protocol Assessment

In the guidance, CDER and CBER ask that a request for special protocol assessment be submitted as an amendment to the investigational new drug application (IND) for the underlying product and that it be submitted to the agency in triplicate with Form FDA 1571 attached. The agency also suggests that the sponsor submit the cover letter to a request for special protocol assessment via facsimile to the appropriate division in CDER or CBER. Agency regulations (21 CFR 312.23(d)) state that information provided to the agency as part of an IND is to be submitted in triplicate and with the appropriate cover form, Form FDA 1571. An IND is submitted to FDA under existing regulations in part 312 (21 CFR part 312), which specifies the information that manufacturers must submit so that FDA may properly evaluate the safety and effectiveness of investigational drugs and biological products. The information collection requirements resulting from the preparation and submission of an IND under part 312 have been estimated by FDA and the reporting and recordkeeping burden has been approved by OMB until September 30, 2002, under the OMB control number 0910–0014. In the **Federal Register** of May 6, 1999 (64 FR 24402), FDA published a notice requesting comments on the burden estimates for the information collection requirements in part 312. The notice also requested an extension of OMB approval for this information collection.

FDA suggests that the cover letter to the request for special protocol assessment be submitted via facsimile to the appropriate division in CDER or CBER to enable agency staff to prepare for the arrival of the protocol for assessment. The agency recommends that a request for special protocol assessment be submitted as an amendment to an IND for two reasons: (1) To ensure that each request is kept in the administrative file with the entire IND, and (2) to ensure that pertinent information about the request is entered into the appropriate tracking databases. Use of the information in the agency's tracking databases enables the appropriate agency official to monitor progress on the evaluation of the protocol and to ensure that appropriate steps will be taken in a timely manner.

CDER and CBER have determined and the guidance recommends that the following information should be submitted to the appropriate Center with each request for special protocol assessment so that the Center may quickly and efficiently respond to the request:

- Questions to the agency concerning specific issues regarding the protocol; and
- All data, assumptions, and information needed to permit an adequate evaluation of the protocol, including: (1) The role of the study in the overall development of the drug; (2) information supporting the proposed trial, including power calculations, the choice of study endpoints, and other critical design features; (3) regulatory outcomes that could be supported by the results of the study; (4) final labeling that could be supported by the results of the study; and (5) for stability protocol, product characterization and relevant manufacturing data.

A. Description of Respondents

A sponsor, applicant, or manufacturer of a drug or biologic product regulated by the agency under the Federal Food, Drug, and Cosmetic Act (the act) or section 351 of the Public Health Service Act who requests special protocol assessment.

B. Burden Estimate

Table 1 of this document provides an estimate of the annual reporting burden for requests for special protocol assessment. The procedures for requesting special protocol assessment that are set forth in the guidance have not been previously described by the agency, although the PDUFA goals and the requirements of section 505(b)(4)(B) of the act (21 U.S.C. 355 (b)(4)(B)) have been in effect since October and November 1998, respectively, as follows:

1. Notification for a Carcinogenicity Protocol

Based on data collected from the review divisions and offices within CDER and CBER, including the number of carcinogenicity protocols submitted for review in the first half of fiscal year (FY) 1999 and the number of INDs for new molecular entities that were received by the agency per year over the last 5 years, CDER and CBER anticipate that approximately 30 respondents will notify the agency of an intent to request special protocol assessment of a carcinogenicity protocol. The agency further estimates that the total annual responses, i.e., the total number of notifications that will be sent to CDER and CBER, will be 60, based on data collected from the offices within CDER and CBER. Therefore, the agency estimates that there will be approximately two responses per respondent. The hours per response, which is the estimated number of hours that a respondent would spend preparing the notification and background information to be submitted in accordance with the guidance, is estimated to be approximately 8 hours. While FDA has not finalized the separate guidance describing background information that should be submitted with notification of a carcinogenicity protocol for assessment, the agency anticipates that it will take respondents approximately 8 hours to gather and copy articles and study reports that are relevant to the carcinogenicity protocol. Therefore, the agency estimates that respondents will spend 480 hours per year notifying the agency of an intent to request special protocol assessment of a carcinogenicity protocol.

2. Requests for Special Protocol Assessment

Based on data collected from the review divisions and offices within CDER and CBER, including the number of requests for special protocol assessment in the first half of FY 1999, the number of INDs for new molecular entities that were received by the agency per year over the past 5 years, the number of sponsors who have submitted protocols for agency review in the past and in the first half of FY 1999, and the number of end-of-phase 2/prephase 3 meetings that occur between respondents and the agency per year, FDA anticipates that 70 respondents will request special protocol assessment per year. The total annual responses are the total number of requests for special protocol assessment that are submitted to CDER and CBER in 1 year. Based on data collected from the review divisions and offices within CDER and CBER, FDA estimates that it will receive approximately 180 requests for special protocol assessment per year. Therefore, the agency estimates that there will be approximately 2.57 responses per respondent. The hours per response is the estimated number of hours that a respondent would spend preparing the information to be submitted with a request for special protocol assessment, including the time it takes to gather and copy questions to be posed to the agency regarding the protocol and data, assumptions, and information needed to permit an adequate evaluation of the protocol. Based on estimates provided by the regulated industry and on the agency's experience in requesting similar information, FDA estimates approximately 15 hours on average would be needed per response.

Therefore, FDA estimates that 2,700 hours will be spent per year by respondents requesting special protocol assessment. Overall, FDA anticipates that respondents will spend 3,180 hours per year to participate in the programs described in the guidance.

In the **Federal Register** of February 9, 2000 (65 FR 6377), the agency requested comments on the proposed collections of information. Eight comments were received, however they were related to the Protocol Assessment and not to the collection of information.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Notification and Requests	Number of Respondents	Number of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
Notification for Carcinogencity Protocols	30	2.0	60	8	480
Requests for Special Protocol Assessment	70	2.57	180	15	2,700
Total					3,180

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–13304 Filed 5–25–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1219]

Biological Products; Bacterial Vaccines and Related Biological Products; Revocation of Biologics Licenses

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of certain biologics licenses. This action was taken at the voluntary request of the licensees in response to a proposed order for the Implementation of Efficacy Review for Bacterial Vaccines and Related Biological Products.

DATES: The revocation of the biologics license for the manufacture of

Polyvalent Bacterial Vaccines with "no U.S. Standard of Potency," manufactured by Hollister-Stier Laboratories, LLC, U.S. license 1272, became effective August 3, 2000. The revocation of the biologics license for the manufacture of Diphtheria and Tetanus Toxoids and Pertussis Vaccine Adsorbed, Diphtheria and Tetanus Toxoids Adsorbed, Diphtheria Toxoid Adsorbed, and Tetanus Toxoid Adsorbed, manufactured by BioPort Corp., U.S. license 1260, became effective November 20, 2000. Other products under these licenses are not affected by this revocation.

FOR FURTHER INFORMATION CONTACT: Astrid L. Szeto, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 15, 2000 (65 FR 31003), FDA issued a proposed order to accept the conclusions and recommendations of the Vaccines and Related Biological Products Advisory Committee (VRBPAC) and the Panel on Review of Allergenic Extracts (the Allergenics Panel) concerning the safety, effectiveness, and labeling of certain bacterial vaccines and related biological products that were previously classified into Category IIIA (remaining on the market pending further studies in support of effectiveness). On the basis of the Allergenics Panel and the VRBPAC findings, FDA proposed to reclassify certain Category IIIA products into Category I (safe, effective, and not misbranded) or Category II (unsafe, ineffective, or misbranded). This action was taken under the reclassification review procedures specified in 21 CFR 601.26. The proposed order also announced the agency's intention to revoke the biologics licenses for those bacterial vaccines and related products classified as Category II (unsafe, ineffective, or misbranded).

Certain Category IIIA bacterial vaccines and toxoids with standards of potency listed in the proposed order were classified into two categories based upon their use as a primary immunogen or as a booster. Diphtheria and Tetanus Toxoids Adsorbed, and Tetanus Toxoid Adsorbed manufactured by BioPort Corp. were recommended by the VRBPAC for classification into Category II (unsafe, ineffective, or misbranded) for primary immunization and Category I (safe, effective, and not misbranded) for booster immunization.

Similarly, certain bacterial vaccines and related biological products listed in the proposed order were recommended for classification into Category II for both diagnosis and immunotherapy by the Allergenics Panel. Polyvalent Bacterial Vaccines with "no U.S. Standard of Potency," manufactured by Hollister-Stier Laboratories, LLC, was recommended for classification into Category II for both diagnosis and immunotherapy by the Allergenics Panel.

FDA agreed with the recommendations of the VRBPAC and the Allergenics Panel to reclassify the above cited products into Category II for their respective indications, and in the proposed order provided notice of the agency's intent to revoke the licenses to manufacture these products. On June 19, 2000, Hollister-Stier Laboratories, LLC, submitted a letter to FDA voluntarily requesting revocation of its license to manufacture Polyvalent Bacterial Vaccines with "no U.S. Standard of Potency." On August 9, 2000, BioPort Corp. submitted a letter to FDA voluntarily requesting revocation of its license to manufacture Diphtheria and Tetanus Toxoids Adsorbed, and Tetanus Toxoid Adsorbed. In its August 9, 2000, letter, BioPort Corp. also voluntarily requested revocation of its license to manufacture Diphtheria and Tetanus Toxoids and Pertussis Vaccine Adsorbed, and Diphtheria Toxoid Adsorbed, although these products were not included in the proposed order.

The proposed order announced that the agency would publish a notice of opportunity for a hearing on the revocation of the license of each product classified in Category II. BioPort Corp. and Hollister-Stier Laboratories waived their opportunity for a hearing when they voluntarily requested license revocation for their reclassified Category II products.

Accordingly, under the provisions of 21 CFR 601.5(a), section 351 of the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Biologics Evaluation and Research (21 CFR 5.68), FDA revoked the biologics license issued to Hollister-Stier, Laboratories, LLC, U.S. license 1272, for the manufacture of Polyvalent Bacterial Vaccines with "no U.S. Standard of Potency," effective August 3, 2000; and FDA revoked the biologics license issued to BioPort Corp., U.S. license 1260, for the manufacture of Diphtheria and Tetanus Toxoids and Pertussis Vaccine Adsorbed, Diphtheria and Tetanus Toxoids Adsorbed, Diphtheria Toxoid Adsorbed, and Tetanus Toxoid Adsorbed effective November 20, 2000.

Dated: May 9, 2001.

Kathryn C. Zoon,

Director, Center for Biologics Evaluation and Research.

[FR Doc. 01–13306 Filed 5–25–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96P–0484]

Blood Products Advisory Committee, Medical Devices Panel; Reclassification of Autopheresis-C® System From Class III to Class II

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of panel recommendation.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment the recommendation of the Blood Products Advisory Committee, Medical Devices Panel (the Panel) to reclassify the Autopheresis-C® System, intended for routine collection of blood and blood components, from class III to class II. The Panel made this recommendation after reviewing the reclassification petition submitted by Baxter Healthcare Corp. (Baxter). FDA is also issuing for public comment its tentative findings on the Panel's recommendation. After considering any public comments on the Panel's recommendation and FDA's tentative findings, FDA will approve or deny the reclassification petition by order in the form of a letter to the petitioner. FDA's decision on the reclassification petition will be announced in the **Federal Register**.

DATES: Submit written comments by August 13, 2001.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Paula S. McKeever, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background (Regulatory Authorities)

The Federal Food, Drug, and Comestic Act (the act) (21 U.S.C. 301 *et seq.*), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Public Law 94–295), the

Safe Medical Devices Act of 1990 (Public Law 101–629), and the Food and Drug Administration Modernization Act of 1997 (Public Law 105–115), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the 1976 amendments), generally referred to as preamendments devices, are classified after FDA has: (1) Received a recommendation from a device classification Panel (an FDA advisory committee); (2) published the Panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act) into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until the device is reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, under section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807 of the regulations.

A preamendments device that has been classified into class III may be marketed, by means of premarket notification procedures, without submission of a premarket approval application (PMA) until FDA issues a final regulation under section 515(b) of the act (21 U.S.C. 360e(b)) requiring premarket approval.

Reclassification of classified postamendments devices is governed by section 513(f)(3) of the act. This section provides that FDA may initiate the reclassification of a device classified into class III under section 513(f)(1) of the act, or the manufacturer or importer of a device may petition the Secretary of Health and Human Services (the Secretary) for the issuance of an order classifying the device in class I or class II. FDA's regulations in § 860.134 (21 CFR 860.134) set forth the procedures for the filing and review of a petition for reclassification of such class III devices. In order to change the classification of the device, it is necessary that the proposed new class have sufficient regulatory controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use.

Under section 513(f)(3)(B)(i) of the act, the Secretary may, for good cause shown, refer a petition to a device classification panel. The Panel shall make a recommendation to the Secretary respecting approval or denial of the petition. Any such recommendation shall contain: (1) A summary of the reasons for the recommendation, (2) a summary of the data upon which the recommendation is based, and (3) an identification of the risks to health (if any) presented by the device with respect to which the petition was filed.

II. Regulatory History of the Device

The Autopheresis-C® System, intended for the routine collection of blood and blood components, is a postamendments device classified into class III under section 513(f)(1) of the act. Therefore, the device can not be placed in commercial distribution for the routine collection of blood and blood components unless it is reclassified under section 513(f)(3) of the act, or subject to an approved PMA under section 515 of the act. This action is taken in accordance with section 513(f)(3) of the act and § 860.134 of the regulations, based on information submitted in a petition for reclassification by Baxter on June 17, 1996, requesting reclassification of the Autopheresis-C® System, intended for routine collection of blood and blood components, from class III to class II. Although Baxter submitted its petition for reclassification under section 513(e) of the act, the request should have been submitted under section 513(f)(3), and therefore FDA has considered the petition filed under section 513(f)(3). Consistent with the act and the regulation, FDA referred the petition to the Panel for its recommendation on the requested change in classification. The Panel met on September 26, 1996, at a public meeting.

III. Device Description

The Autopheresis-C® System, intended for routine collection of blood and blood components, is an automated plasmapheresis system. It utilizes a spinning membrane separation device to achieve rapid and gentle separation by filtration of whole blood into concentrated cellular components for reinfusion and into plasma for collection.

The instrument uses a system of pumps and sensors controlled by a microprocessor and it incorporates a variety of safety and alarm system functions. It uses a fully automated processing program to collect a preset volume of plasma from a donor. Plasma collection in the Autopheresis-C® System involves sequential phases of collection of plasma from the donor and reinfusion of the residual red blood cell concentrate back to the donor.

The Autopheresis-C® System is currently employed in commercial plasma centers where it is used to collect Source Plasma, and it is also found in blood centers and hospital blood banks where it is used for the collection of plasma for preparation of fresh frozen plasma.

IV. Recommendations of the Panel

At a public meeting on September 27, 1996, the Panel unanimously recommended that the Autopheresis-C® System, intended for routine collection of blood and blood components, be reclassified from class III to class II. The Panel also recommended that subsequent membrane-based blood cell separators be classified as class II devices, if in the opinion of FDA they are substantially equivalent to the Autopheresis-C® System, the predicate device. The Panel believed that class II with the special controls of a periodic report filed annually for a minimum of 3 years with emphasis on adverse reactions would provide reasonable assurance of the safety and effectiveness of the device.

V. Risks to Health

FDA has identified the following risks associated with apheresis blood donation and processing: (1) The potential loss of blood due to leaks; (2) thrombosis due to activation of factors by foreign surfaces; (3) toxic reaction to citrate or heparin anticoagulant; (4) damage to red cells, activation of compliment, and denaturation of proteins; (5) potential for sepsis and fever due to bacterial contamination of the donor's blood returned to the donor; (6) infectious disease risk to the donor or to the operator due to leaks; (7) electrical shock hazard; (8) donor stress reaction due to removal or loss of blood; and (9) reservoir rupture.

Some of the reported adverse donor reactions are: (1) Allergic reaction; (2) vasovagal or syncopal reaction; (3) citrate toxicity; (4) hematoma; (5) hematuria or hemoglobinuria; (6) hypovolemic reaction; (6) myocardial infarct in three cases unrelated to the donation procedure; (7) mesenteric thrombosis unrelated to the donation procedure; (8) chest pains; (9) high blood pressure; (10) blood clotting; (11) nonresponsive donor during or after the donation procedure; (12) death of a donor several days following an apheresis unrelated to the procedure; (13) blood spray; and (14) tubing separation.

VI. Summary of Reasons for Recommendation

After reviewing the data and information contained in the petition and provided by FDA, and after consideration of the open discussions during the Panel meeting and the Panel members' personal knowledge of and clinical experience with the device, the Panel gave the following reasons in support of its recommendation to reclassify the Autopheresis-C® System, intended for routine collection of blood and blood components, as the predicate device and the subsequent generic type of filtration-based blood cell separator for use in routine collection of donor plasma from class III to class II.

The Panel believes that the Autopheresis-C® System and subsequent generic type of filtration-based blood cell separator should be reclassified into class II because special controls, in addition to general controls, provide reasonable assurance of the safety and effectiveness of the device, and there is sufficient information to establish special controls to provide such assurance.

VII. Summary of Data Upon Which the Panel Recommendation Is Based

In addition to the potential risks of the Autopheresis-C® System and subsequent generic types of filtration-based blood cell separators described above, there is sufficient information about the benefits of the device. Specifically, the Autopheresis-C® System has been used since 1986, and the data presented by Baxter showed no evidence of cellular or protein damage to the donor blood; the procedure was well tolerated by the donor; and the instrument was safe and effective for plasma collection. The period from 1986 to 1996 showed that a 0.03 percent of donations were associated with some type of event which were reported to Baxter.

Based on the available information, FDA believes that the special controls discussed below are capable of providing reasonable assurance of the safety and effectiveness of the Autopheresis-C® System, intended for routine collection of blood and blood components, and subsequent generic types of filtration-based blood cell separators with regard to the identified risks to health of this device.

VIII. Special Controls

In addition to general controls, FDA believes that the following special control is adequate to address the risks to health described for this device. The manufacturer must file an annual report with FDA on the anniversary date of reclassification for 3 consecutive years. A manufacturer of a device determined to be substantially equivalent[1] to the Autopheresis-C® System, intended for routine collection of blood and blood components, also is required to comply with the same general and special controls. Any subsequent change to the device requiring the submission a premarket notification in accordance with section 510(k)[2] of the act, should be included in the annual report.

Unless FDA specifies otherwise, each annual report (special control) must include:

1. A summary of adverse donor reactions reported by the users to the manufacturer that do not meet the threshold for medical device reporting under 21 CFR part 803;

2. Any change to the device, including but not limited to:

- new indications for use of the device;
- labeling changes, including operation manual changes;
- computer software changes, hardware changes, and disposable item changes, e.g., collection bags, tubing, filters;

3. Equipment failures, including software, hardware, and disposable item failures, e.g., collection bags, tubing, filters.

IX. FDA's Tentative Findings

The Panel and FDA believe that the Autopheresis-C® System, intended for routine collection of blood and blood components, and subsequent generic types of filtration-based blood cell separators should be classified into class II because special controls, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the device, and there is sufficient information to establish special controls to provide such assurance.

However, any change in the indication for use, i.e., for therapeutic purposes, would require a PMA since these devices are not included in the reclassification action.

X. References

The following references have been placed on display in the Dockets Management Branch and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Petition for reclassification of the Autopheresis-C® System from class III to class II by Baxter Healthcare Corp., June 17, 1996.

2. Transcript of the Blood Products Advisory Committee, 52d Meeting, September 27, 1996.

XI. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

XII. Analysis of Impacts

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

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small

[1] For assistance see the guidance document entitled "The New 510(k) Paradigm: Alternate Approaches to Demonstrating Substantial Equivalence in Premarket Notifications," March 1998, at http://www.fda.gov/cdrh.

[2] For assistance see the guidance document entitled "Deciding When to Submit a 510(k) for a Change to an Existing Device," January 1997, at http://www.fda.gov/cdrh.

entities. Reclassification of the device from class III to class II will relieve manufacturers of the cost of complying with the premarket approval requirements in section 515 of the act. Because reclassification will reduce regulatory costs with respect to this device, it will impose no significant economic impact on any small entities, and it may permit small potential competitors to enter the marketplace by lowering their costs. The agency therefore certifies that this reclassification action, if finalized, will not have a significant economic impact on a substantial number of small entities. In addition, this reclassification action will not impose costs of $100 million or more on either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement of analysis under section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

XIII. Request for Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this document by August 13, 2001. Two copies of any comment are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 17, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–13302 Filed 5–25–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Science Advisory Board to the National Center for Toxicological Research; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Science Advisory Board to the National Center for Toxicological Research (NCTR).

General Function of the Committee: The board advises the Director, NCTR, in establishing, implementing, and evaluating the research programs that assist the Commissioner of Food and Drugs (the Commissioner) in fulfilling regulatory responsibilities. The board provides an extra-agency review in ensuring that the research programs at NCTR are scientifically sound and pertinent.

Date and Time: The meeting will be held on June 11, 2001, 1 p.m. to 5:30 p.m., and June 12, 2001, 8:30 a.m. to 1 p.m.

Location: NCTR, Bldg. #12, Conference Center, Jefferson, AR.

Contact: Leonard M. Schechtman, NCTR (HFT–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6696, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12559. Please call the Information Line for up-to-date information on this meeting.

Agenda: The board will be presented with progress reports on the implementation of recommendations made by the board at its last meeting on NCTR's research programs in endocrine disrupter knowledge base and microbiology. The NCTR director will provide a center update and a discussion of future research directions. A proposal will be made to the board that it consider establishing a subcommittee on scientific opportunities to improve regulatory science through collaboration with external stakeholders. A report will be provided to the board on the activities of an existing subcommittee with a similar focus (Advisory Committee for Pharmaceutical Science, Nonclinical Studies Subcommittee) NCTR division directors will discuss the accomplishments and future directions for their divisions.

Procedure: On June 11, 2001, from 1 p.m. to 5:30 p.m., and June 12, 2001, from 8:30 a.m. to 12 noon, the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 18, 2001. Oral presentations from the public will be scheduled between approximately 11 a.m. and 12 noon on June 12, 2001. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 18, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On June 12, 2001, from 12 noon to 1 p.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). This portion of the meeting will be closed to permit discussion of information concerning individuals associated with the research programs at NCTR.

The Commissioner approves the scheduling of meetings at locations outside the Washington, DC area on the basis of the criteria of 21 CFR 14.22 of FDA's regulations relating to public advisory committees.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 22, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–13378 Filed 5–25–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection: Comment Request; a Study of Motivations and Deterrents to Blood Donation in the United States

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: A Study of Motivations and Deterrents to Blood Donation in the United States. *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* There are serious blood shortages in the U.S. and the situation is predicted to worsen unless corrective measures are initiated. Through a randomized, anonymous mail survey of individuals who have donated blood at one of the five blood centers participating in the NHLBI Retrovirus Donor Study (REDS), this study will examine the personal, or

intrinsic reasons for choosing to donate blood, as well as external reasons for choosing to donate blood. Donors who do not initially respond to the mail survey will be given the opportunity to complete the survey on a secured website. Comparisons will be made between one-time donors and repeat donors will be premise that repeat donors may have a stronger altruistic impetus for donating than donors who donate less frequently. Donors will be asked about the donation experience, the context in which he/she first donated blood, and questions addressing accessibility to donate. Using the Self-Report Altruism Scale, respondents will rate themselves based on other personal behaviors that are considered to exhibit social responsibility and/or altruism. Additionally, the study will examine possible barriers to donation, such as inconvenience, discomfort, and confidentiality, among donors who have not donated recently. With the majority of the blood supply coming from committed, repeat donors, information regarding why an individual decides to donate, and more importantly, what motivates them to come back, will provide valuable insight on possible strategies to encourage increased donation frequency among the current blood donor population. It is also important to gain perspective on why only 50% of first time donors return to donate again. Without successful recruitment of new regular donors it is impossible to sustain the blood supply and availability. Assessment of possible barriers to donation will provide areas for focusing improvement in the blood donation process. Blood availability continues to be one of the most serious problems facing the healthcare industry and was recently compounded by new Food and Drug Administration regulations regarding deferring donors who had traveled to or lived in the United Kingdom for a cumulative period of 6 months between 1980 and 1996. Data from this survey will provide a valuable perspective for devising strategies to increase blood donation the U.S. These data will be invaluable to NHLBI, FDA, and other government agencies in helping formulate policy for ensuring Americans that safe blood is available when needed. *Frequency of Response:* Once. *Affected Public:* Individuals. *Type of Respondents:* Adult Blood Donors. The annual reporting burden is as follows: *Estimated Number of Respondents:* 30,000; *Estimated Number of Respondents per Respondent:* 1; *Average Burden Hours Per Response:* 0.25; and *Estimated Total Annual Burden Hours Requested:* 7,500. The annualized cost to respondents is estimated at: $112,500 (based on $15 per hour). There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Type of respondents	Estimated number of respondents	Estimated number of respondents per respondent	Average burden hours per response	Estimated total annual burden hours requested
Adult Blood Donors	30,000	1	0.25	7,500

Request for Comments

Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriated automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before July 30, 2001.

FOR FURTHER INFORMATION CONTRACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. George J. Nemo, Group Leader, Transfusion Medicine, Scientific Research Group, Division of Blood Diseases and Resources, NHLBI, NIH, Two Rockledge Center, Suite 10042, 6701 Rockledge Drive, MSC 7950, Bethesda, MD 20892-7950, or call (301) 435-0075, or e-mail your request to: *nemog@nih.gov*.

Dated: May 17, 2001.

Donald Christoferson,

Executive Officer, NHLBI.

[FR Doc. 01–13344 Filed 5–25–01; 8:45 am]

BILLING CODE 4140–01–M

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.

Ocular Therapeutic Agent Delivery Devices And Methods

Michael R. Robinson (NEI), Karl G. Csaky (NEI), Peng Yuan (NEI), Cynthia Sung (EM), Robert B. Nussenblatt (NEI), Janine A. Smith (NEI)

Serial No. 09/808,149, filed Mar. 15, 2001

Licensing Contact: Dale Berkley; 301/496–7735 ext. 223; e-mail: berkleyd@od.nih.gov

The invention is directed to ocular implant devices for the delivery of therapeutic agents to the eye in a controlled and sustained manner. Implants suitable for either subconjunctival or intravitreal placement are the subject of the invention. These implants permit

continuous release of therapeutic agents into the eye over specified periods of time, which can be weeks, months or years. In one aspect of the invention a therapeutic agent is included in both an inner core or pellet and an exterior composite matrix layer to provide a dual mode release of the therapeutic agent. That is, a loading dose is initially delivered to the eye by the matrix layer followed by a transition in release rate to a relatively steady maintenance dosage that is sustained over a prolonged period of time. In another aspect of the invention, methods for making and using the implants are described. The time-dependent delivery of one or more drugs to the eye by this invention makes it possible to maximize the pharmacological and physiological effects of the eye treatment for human and veterinary applications.

Vessel Surface Reconstruction with a Tubular Deformable Model

Yim et al. (CC)
DHHS Reference No. E–202–00/1, filed Feb 15, 2001
Licensing Contact: Dale Berkley; 301/496–7735 ext. 270; e-mail: berkleyd@od.nih.gov

The invention is a method for modeling a carotid or renal artery to measure stenosis from 3D angiographic data that may otherwise exhibit limited image resolution and contrast. The method reconstructs vessel surfaces from 3D angiographic data using a deformable model that employs a tubular coordinate system. Vertex merging is incorporated into the coordinate system to maintain even vertex spacing and to avoid problems of self-intersection of the surface. This method produces reconstructed surfaces that have a realistic smooth appearance and accurately represent vessel shape. The method allows for an objective evaluation of vessel shape and may improve the precision of shape measurements from 3D angiography.

User Friendly Integrated Database for the Management of Animal Study Proposals

Antonia F. Calzone (NIAAA), Etienne Lamoreaux (NIAAA), Karen Montijo (NIDDK)
DHHS Reference No. E–215–00/0
Licensing Contact: Dale Berkley; 301/496–7735 ext. 223; e-mail: berkleyd@od.nih.gov

The invention is a set of templates written in FileMaker-Pro™ script that provides a convenient integrated database management system for tracking the care and disposition of laboratory animals. This software is a multifunction program that meets the needs of facility veterinarians, animal facility managers, and animal care personnel with respect to in-house records keeping and federal reporting requirements. The invention builds on the framework of the FileMaker Pro™ software, and results in a database system that stores information pertinent to all current Animal Study Proposals (ASPs). This design permits users to access the data from a networked centralized Windows NT based server using either a Macintosh or IBM compatible workstation. The invention comprises features that facilitate the day-to-day management of the animal facility as well as powerful information storage capabilities.

Identification of New Malaria Parasite Erythrocyte Binding Protein (BAEBL) that Binds to Human Red Cells

Ghislaine D. Mayer, Louis H. Miller (NIAID)
DHHS Reference No. E–328–00/0, filed Apr 03, 2001
Licensing Contact: Carol Salata; 301/496–7735 ext. 232; e-mail: salatac@od.nih.gov

Malaria is endemic in many parts of the world, particularly in tropical regions such as Asia, Central America and South America. Recent estimates of the number of cases of malaria worldwide are between five hundred million and one billion. There are approximately two to three hundred million new cases of malaria each year and malaria causes a minimum of one million deaths each year. This invention relates to the identification and characterization of the binding specificity of BAEBL, a novel Plasmodium falciparum erythrocyte binding ligand that interacts with human erythrocytes in a sialic acid dependent manner. This novel Plasmodium falciparum erythrocyte binding ligand is unique and quite distinct from previously described Plasmodium falciparum erythrocyte binding proteins EBA–175. BAEBL may be used as a malaria vaccine to block human red cell recognition and invasion.

Attenuated Host-Range Restricted Dengue Viruses Derived by Site-Directed Mutagenesis of the Conserved 3'-Stem and Loop Structure in Genomic RNA for Use as Vaccines

Lingling Zeng, Lewis Markoff (CBER/FDA)
DHHS Reference No. E–067–98/2, filed Mar 02, 2001
Licensing Contact: Carol Salata; 301/496–7735 ext. 232; e-mail: salatac@od.nih.gov

Although flaviviruses cause a great deal of human suffering and economic loss, there is a shortage of effective vaccines. The present invention is directed toward vector stage replication-defective flaviviruses that are replication-defective in mosquito vectors that transmit them to humans. The replication-defective flaviviruses of the present invention demonstrate a limited ability to replicate in the vector organisms that transmit flaviviruses from one host to another. More specifically, the present invention is directed toward the construction and propagation of flaviviruses that possess 3'-noncoding regions altered in such a way as to prevent or severely limit viral reproduction in a vector organism. Not only is the dengue 1 mutant replication defective in mosquitoes, but it is also attenuated and immunogenic in monkeys. Moreover, it protects against challenge, thus it has strong potential as a dengue vaccine.

A Chimeric Protein Comprising Non-Toxic Pseudomonas Exotoxin A and Type IV Pilin Sequences

David FitzGerald (NCI)
DHHS Reference No. E–283–00/0, filed Dec 21, 2000
Licensing Contact: Carol Salata; 301/496–7735 ext. 232; e-mail: salatac@od.nih.gov

This invention provides candidate chimeric vaccines that generate antibodies which interfere with adherence of Pseudomonas aeruginosa exotoxin A to epithelial cells and neutralize the cytotoxicity of exotoxin A. This invention specifically relates to a chimeric protein wherein key sequences from a Type IV pilin protein are inserted into a non toxic version of Pseudomonas aeruginosa exotoxin A. Pilin is a protein that is present on the surface of bacteria and other microorganisms, including P. aeruginosa. The key sequences are known to interact with asialoGM1 receptors on human epithelial cells, and allow bacteria and other microorganisms to adhere to epithelial cells and colonize. The present invention may be particularly useful for cystic fibrosis patients who are prone to infections with P. aeruginosa. Also, this invention could be a broad approach to vaccines against all gram negative bacteria, not just Pseudomonas aeruginosa. Pilin epitopes of other gram negative bacteria could be inserted into the Pseudomonas aeruginosa exotoxin A and used as a vaccine against that specific bacteria.

Dr. FitzGerald and his colleagues have demonstrated that the chimeric protein reacted with asialoGM1, a receptor on

epithelial cells and blocked adherence of P. aeruginosa on epithelial cells. When the chimeric protein was injected into rabbits, the rabbits produced antibodies that blocked bacterial adherence and neutralized the cell killing activity of native exotoxin A.

A Plasmid for Expression of a More Soluble Form of HIV Integrase Protein in E. coli

Robert Craigie (NIDDK)
DHHS Reference No. E–110–01/0
Licensing Contact: Sally Hu; 301/496–7056 ext. 265; e-mail: hus@od.nih.gov

The invention describes a plasmid that provides a convenient method for producing large quantities of integrase protein. This integrase protein is more soluble because amino acid residue Phe185 is changed to Lsy. This change does not affect the in vitro activity of the protein, but the improved solubility facilitates large-scale purification and handling. Since HIV integrase is a candidate target for antiviral drugs and an assay system or a source of HIV integrase is required to identify lead compounds, this invention could be very useful for an efficient means of producing integrase protein on a large scale. The integrase protein could be used in screening for integrase inhibitors that could be developed as anti-HIV drugs. This invention is available for licensing through a Biological Materials License, as no patent application exists.

Benzoylalkylindolepyridinium Compounds and Pharmaceutical Compositions Comprising Such Compounds

William G. Rice, Mingjun Huang, Robert W. Buckheit, Jr., David G, Covell, Grzegorz Czerwinski, Christopher Michejda, and Vadim Makarov (NCI)
DHHS Reference Nos. E–278–98/0 and E–278–98/1, filed Dec 18, 2000
Licensing Contact: Sally Hu; 301/496–7056 ext. 265; e-mail: hus@od.nih.gov

The present invention provides novel antiviral compounds active against HIV. These compounds, referred to as benzoylalkylindolepyridinium compounds (BAIPs) are effective against HIV isolates that have developed mutations rendering conventional drugs ineffective. BAIPs apparently do not require intracellular phosphorylation nor bind to the reverse transcriptase (RT) active site, which distinguishes their mechanism of action from the dideoxynucleoside (ddN) and acyclic nucleoside phosphonate (ANP) nucleoside analog drugs. ddN and ANP have proven clinically effective against limiting human immunodeficiency virus (HIV) infection, but resistance rapidly emerges due to mutations in and around the RT active site. The BAIPs also may be distinguished from non-nucleoside reverse transcriptase inhibitors (NNRTIs), in part because the BAIPs bind to a different site on the RT enzyme. The usage of NNRTIs is limited by the rapid emergence of resistant strains also. Moreover, unlike the NNRTIs, BAIPs of the present invention have been shown to be effective against HIV–1, HIV–2 and simian immunodeficiency virus (SIV) proliferation. Thus, BAIPs are broadly antiviral, non-nucleoside reverse transcriptase inhibitors (BANNRTIs).

This abstract modifies an abstract for this technology published in the **Federal Register** on Tuesday, February 13, 2001 (66 FR 10027).

Dated: May 17, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–13345 Filed 5–25–01; 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.

Combined Inhibition of Phosphodiesterase-4 (PDE–4) and Phosphodiesterase-3 (PDF–3) as a Therapy for Th1 Mediated Autoimmune Diseases

Dr. Bibiana Bielekova et al. (NINDS)
DHHS Reference No. E–077–00/0, filed Dec 22 2000
Licensing Contact: Marlene Shinn; 301/496–7056 ext. 285; e-mail: shinnm@od.nih.gov

Hyperactive Th1-mediated immune responses are thought to be involved in the pathogenesis of many autoimmune diseases, including rheumatoid arthritis, diabetes, inflammatory bowel disease, vitiligo, and multiple sclerosis among others. Immune cells are known to produce primarily two classes of phosphodiesterases (PDE), the PDE4 and the PDE3 classes. Inhibitors of these PDEs have been shown to down-regulate the expression or production of Th1 cytokines and have either no effect or augment the production of Th2 cytokines, therefore making them good candidates for the treatment of Th1-mediated autoimmune diseases.

The NIH announces a new technology wherein PDE–4 and PDE–3 inhibitors are used in combination and a synergistic enhancement of therapeutic activity is achieved. This results in a more potent immunomodulatory effect on the immune cells and could lead to the administration of lower dose rate of the inhibitors. This new form of treatment will alleviate side effects through the use of a lower dose rate for each and will make for a more effective therapy.

Determination of AM-Binding Proteins and the Association of Adrenomedullin (AM) Therewith

F. Cuttitta et al. (NCI)
DHHS Reference No. E–256–99/1 filed, Sep 08 2000 (Note: This invention is related to E–206–95/3, filed Aug 18 1996, the disclosure of which is incorporated herein.)
Licensing Contact: Matthew Kiser; 301/496–7056 ext. 224; e-mail: kiserm@od.nih.gov

The present invention provides methods for the isolation, identification, and purification of adrenomedullin (AM)-binding proteins. Methods for utilizing the purified AM-binding proteins, or functional portions thereof, to diagnose, treat, and monitor AM-related diseases are described. A second aspect of this technology discloses the identification and isolation of a novel complex between AM and a specific AM-binding protein 1 (AMBP–1), designated factor H (fH). The identification of small molecule

antagonist, which down-regulate the function of AM, factor H, and the AM/fH complex has been achieved. Collectively, the invention provides methods for treating conditions such as cancer or diabetes, via antibodies and small molecule antagonists.

Adrenomedullin (AM) is expressed in human cancer cell lines of diverse origin and functions as a universal autocrine growth factor, driving neoplastic proliferation. Experimental models for use in identifying the role of AM in pancreatic physiology have been validated and are available for licensing. The interesting observations show that AM inhibits insulin secretion in a dose-dependent manner. Further experiments have shown that a neutralizing antibody up-regulates insulin release at least five-fold, an effect that is reversed with the addition of synthetic AM.

Novel Inhibitors of p53 for Treatment of Neurodegenerative Disorders, Myocardial Infarction and Other Tissue Insults

Nigel H. Greig, et al. (NIA)

Serial No. 60/216,388, filed July 6, 2000

Licensing Contact: Norbert Pontzer; 301/496–7736, ext. 284; e-mail: pontzern@nih.gov

The tumor suppressor protein p53 is a key modulator of stress responses, and activation of p53 precedes apoptosis (programmed cell death) in many cell types. Conditions that stress tissue, such as deposition of amyloid b-peptide, may thus cause tissue degeneration through activation or up-regulation of p53. This invention provides novel inhibitors of p53 and methods of using these inhibitors for the prevention or treatment of the stress related tissue degeneration observed in Alzheimer's disease, myocardial infarction and stroke. In vitro and ex vivo studies demonstrated that p53 inhibition protected nerve cells from toxic insults that otherwise induced programmed cell death. In a rat model of stroke, p53 inhibition produced a 50% reduction in stroke volume.

Dated: May 17, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–13346 Filed 5–25–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Heart, Lung, and Blood Institute Special Emphasis Panel NHLBI, National Research Service Training, SEP (K's).

Date: June 28–29, 2001.

Time: 7 PM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Roy L. White, Phd, Review Branch, NIH, NHLBI, Rockledge Building II, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892, 301–435–0291.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 22, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13335 Filed 5–25–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The 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 Heart, Lung, and Blood Institute Special Emphasis Panel ACTION–A–CHF trial Investigating Outcomes, of Exercise Training.

Date: June 19, 2001.

Time: 2 to 5.

Agenda: To review and evaluate grant applications.

Place: 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Joyce A. Hunter, PhD, Review Branch, Room 7194, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20872.

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. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 22, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13336 Filed 5–25–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Heart, Lung, and Blood Institute Special Emphasis Panel RFA: HL–01–004 (Blood and Marrow Transplant Clinical Research Network).

Date: June 28–29, 2001.

Time: 7 PM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Mariott Wardman Park Hotel, 2660 Woodley Road NW., Washington, DC 20008.

Contact Person: Diane M. Reid, MD, Review Branch, Room 7182, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892, (301) 435–0277.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 22, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13338 Filed 5–25–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Initial Review Group, Treatment Research Subcommittee.

Date: June 7–8, 2001.

Time: 9 AM to 3 PM.

Agenda: To review and evaluate grant applications.

Place: Radisson Barcelo Hotel, 2121 P Street NW, Washington, DC 20037.

Contact Person: Kesinee Nimit, MD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1432.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Initial Review Group, Health Services Research Subcommittee.

Date: June 7–8, 2001.

Time: 9 AM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Radisson Barcelo Hotel, 2121 P Street NW, Washington, DC 20037.

Contact Person: Marina L. Volkov, Ph.D, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1433.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Treatment Research.

Date: June 7, 2001.

Time: 1 PM to 4 PM.

Agenda: To review and evaluate grant applications.

Place: Radisson Barcelo Hotel, 2121 P Street NW, Washington, DC 20037.

Contact Person: Mark R. Green, Ph.D, Chief, CEASRB, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, Suite 3158, 6001 Executive Boulevard, Bethesda, MD 20892–9547, (301) 435–1431.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, International Studies on Drug Abuse and HIV/AIDS.

Date: June 27, 2001.

Time: 8 AM to 6 PM.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 1600 Rhode Island Ave., NW., Washington, DC 20037.

Contact Person: William C. Grace, Ph.D, Deputy Director, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2755.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Center Review Committee.

Date: July 9, 2001.

Time: 8:30 AM to 4 PM.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Pentagon City, 1250 S. Hayes Street, Arlington, VA 22202.

Contact Person: Rita Liu, Ph.D, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2620.

Name of Committee: National Institute on Drug Abuse Initial Review Group, Medication Development Research Subcommittee.

Date: July 9–10, 2001.

Time: 9 AM to 6 PM.

Agenda: To review and evaluate grant applications.

Place: The Westin Grand, 2350 M Street, NW, Washington, DC 20037.

Contact Person: Khursheed Asghar, Ph.D, Chief, Basic Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2620.

Name of Committee: National Institute on Drug Abuse Initial Review Group, Training and Career Development Subcommittee.

Date: July 10–11, 2001.

Time: 8 AM to 6 PM.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton-Pentagon City, Arlington, VA.

Contact Person: Mark Swieter, Ph.D, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1389.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Medication Development.

Date: July 10, 2001.

Time: 10 AM to 3 PM.

Agenda: To review and evaluate grant applications.

Place: The Westin Grand Hotel, 2350 M Street, NW, Washington, DC 20037.

Contact Person: Rita Liu, Ph.D, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2620.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Responding to Club Drugs and Other Emerging and Current Drug Abuse Trends.

Date: July 11–12, 2001.

Time: 8 AM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: The Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.

Contact Person: William C. Grace, Ph.D, Deputy Director, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2755.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Research on GHB and its Precursors.

Date: July 16–17, 2001.

Time: 9 AM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Pentagon City, 1250 S. Hayes Street, Arlington, VA 22202.

Contact Person: Rita Liu, Ph.D, Health Scientist Administrator, Office of Extramural

Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2620.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, The Next Generation of Drug Abuse Prevention Research

Date: July 17, 2001.

Time: 9 AM to 5 PM.

Agenda: To review and evaluate grant application.

Place: The Hyatt Regency Hotel, 100 Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Teresa Levitin, Ph.D, Director, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2755.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, HIV/AIDS and Drug use Among Adolescents.

Date: July 18, 2001.

Time: 9 AM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Marina L. Volkov, Ph.D, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1433.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: May 22, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13333 Filed 5–25–01; 8:45 am]

BILLING CODE 4140–01–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 Communication Disorders Special Emphasis Panel.

Date: June 29, 2001.

Time: 8 AM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Hilton Gaithersburg, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: Craig A. Jordan, Ph.D, Chief, Scientific Review Branch, NIH/NIDCD/DER, Executive Plaza South, Room 400C, Bethsda, MD 20892–7180, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: May 22, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13334 Filed 5–25–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 01–46, Applicant Interview—P01.

Date: June 7, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: H. George Hausch, Ph.D., Chief, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 01–58, Review of R44s.

Date: June 15, 2001.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Washko, Ph.D., DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 01–49, Review of R01s.

Date: June 25, 2001.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, Rm. 4AN44F, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anna Sandberg, Ph.D., Scientific Review Administrator, National Institute of Dental and Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–3089.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 01–51, Review of R21s.

Date: July 9, 2001.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anna Sandberg, Ph.D., Scientific Review Administrator, National Institute of Dental and Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–3089.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 01–47, R01 Reviews.

Date: July 15–16, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Hyatt Regency Hotel, 100 Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Anna Sandberg, Ph.D., Scientific Review Administrator, National Institute of Dental and Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–3089.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 01–42, Applicant—P01.

Date: July 16–17, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Philip Washko, Ph.D., DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 01–48, R01 Reviews.

Date: July 17, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Hyatt Regency Hotel, 100 Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Anna Sandberg, Ph.D., Scientific Review Administrator, National Institute of Dental and Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–3089.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 01–39, Applicant Interview–P01.

Date: August 27–28, 2001.

Time: 8:30 a.m. 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20892.

Contact Person: H. George Hausch, Ph.D., Chief, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 22, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13339 Filed 5–25–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIDCR Special Grants Review Committee, Review of F32s, K grants and R03s.

Date: June 21–22, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Pooks Hill Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Yujing Liu, Ph.D, MD, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 22, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13340 Filed 5–25–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Dental and Craniofacial Research Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Dental and Craniofacial Research Council NIDCR June 2001 Council Meeting.

Date: June 12, 2001.

Open: 8:30 a.m. to 12:30 p.m.

Agenda: Scientific Presentations, Directors Report, Council Business.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Closed: 12:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: Dushanka V. Kleinman, DDS, Deputy Director, National Institute of Dental & Craniofacial Res., National Institutes of Health, 9000 Rockville Pike, 31/2C39, Bethesda, MD 20892, (301) 496–9469.

Information is also available on the Institute's/Center's home page: www.nidcr.nih.gov/discover/nadrc/index.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 22, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13341 Filed 5–25–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 on Drug Abuse Special Emphasis Panel, "Configurable Gene-Chip Finds Genetic Factors in Addiction".

Date: June 5, 2001.

Agenda: To reivew and evaluate contract proposals.

Time: 10 a.m. to 1 p.m.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Richard C. Harrison, Chief, Contract Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, 302–435–1437.

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. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: May 22, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13342 Filed 5–25–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 Drug Abuse Special Emphasis Panel, Health & Development Consequences of Prenatal Exposure to Methamphetamine.

Date: June 15, 2001.

Time: 12:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Barcelo Hotel, 2121 P Street NW., Washington, DC 20037.

Contact Person: Kesinee Nimit, MD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1432.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS).

Dated: May 22, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13343 Filed 5–25–01; 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: June 7–8, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Clarion Hampshire Hotel, 1310 New Hampshire Ave, NW., Washington, DC 20036.

Contact Person: Jay Joshi, Ph.D, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7846, Bethesda, MD 20892, (301) 435–1184.

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: Oncological Sciences Integrated Review Group Chemical Pathology Study Section.

Date: June 11–13, 2001.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

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.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group Alcohol and Toxicology Subcommittee 3.

Date: June 11–12, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave, Chevy Chase, MD 20815.

Contact Person: Christine Melchior, Ph.D, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7816, Bethesda, MD 20892, (301) 435–1713.

Name of Committee: Endocrinology and Reproductive Sciences Integrated Review Group Reproductive Endocrinology Study Section.

Date: June 11–12, 2001.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard By Marriott, 805 Russell Avenue, Gaithersburg, MD 20879.

Contact Person: Abubakar A. Shaikh, DVM, Ph.D, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 435–1042.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group Molecular, Cellular and Developmental Neurosciences 3.

Date: June 11–12, 2001.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave, Washington, DC 20015.

Contact Person: Michael A. Lang, Ph.D, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892, (301) 435–1265.

Name of Committee: Musculoskeletal and Dental Sciences Integrated Review Group General Medicine A Subcommittee 1.

Date: June 11–12, 2001.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Harold M. Davidson, Ph.D, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7814, Bethesda, MD 20892, (301) 435–1776, *davidsoh@csr.nih.gov.*

Name of Committee: Pathophysiological Sciences Integrated Review Group General Medicine A Subcommittee 2.
Date: June 11–12, 2001.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Monarch Hotel, 2400 M Street, NW., Washington, DC 20037.
Contact Person: Mushtaq A. Khan, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2176, MSC 7818, Bethesda, MD 20892, 301–435–1778, *khanm@csr.nih.gov.*

Name of Committee: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group Epidemiology and Disease Control Subcommittee 1.
Date: June 11–12, 2001.
Time: 9 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20852.
Contact Person: J. Scott Osborne, PhD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, (301) 435–1782.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 11, 2001.
Time: 12:30 p.m. to 1:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard By Marriott, 805 Russell Avenue, Gaithersburg, MD 20879.
Contact Person: Abubakar A. Shaikh, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 435–1042, *shaikha@csr.nih.gov.*

Name of Committee: Pathophysiological Sciences Integrated Review Group Lung Biology and Pathology Study Section.
Date: June 12–13, 2001.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, Conference Center, One Washington Circle, Washington, DC 20037.
Contact Person: George M. Barnas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, (301) 435–0696. *george_barnas@nih.gov.*

Name of Committee: Cell Development and Function Integrated Review Group Cell Development and Function 3.
Date: June 12–13, 2001.
Time: 8:30 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Gerhard Ehrenspeck, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5138, MSC 7840, Bethesda, MD 20892, (301) 435–1022.*ehrenspeckg@nih.crs.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group Pathology A Study Section.
Date: June 12–13, 2001.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, Conference Center, One Washington Circle, Washington, DC 20037.
Contact Person: Larry Pinkus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 12, 2001.
Time: 8:30 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person. Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, *bunnagb@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group Integrative, Functional and Cognitive Neuroscience 5.
Date: June 12–13, 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, PhD, 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: June 12, 2001.
Time: 1:30 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, *bunnagb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 13, 2001.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Bethesda, MD 20815.
Contact Person: Gopal C. Sharma, DVM, MS, PhD, Diplomate American Board of Toxicology, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2184, MSC 7818, Bethesda, MD 20892, (301) 435–1783, *sharmag@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 13, 2001.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1777 *bunnagb@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group Visual Sciences B Study Section.
Date: June 13–14, 2001.
Time: 8:30 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW, Washington, DC 20007.
Contact Person: Christine Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7816, Bethesda, MD 20892, (301) 435–1713.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 13, 2001.
Time: 3:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Paul K. Strudler, PhD, 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: June 13, 2001.
Time: 7:30 p.m. to 9:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Washington Plaza Hotel, 10 Thomas Circle, NW, Washington, DC 20005.
Contact Person: Alec S. Liacouras, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7842, Bethesda, MD 20892, (301) 435–1740.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 14–15, 2001.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Club Quarters DC, 839 17th Street, NW., Washington, DC 20006.
Contact Person: Nancy Hicks, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, (301) 435–0695.

Name of Committee: Molecular, Cellular and Development Neuroscience Integrated

Review Group Molecular, Cellular and Development Neurosciences 7.
Date: June 14–15, 2001.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Doyle Washington Hotel, 1500 New Hampshire Ave., NW, Washington, DC 20036.
Contact Person: Joanne T. Fujii, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, Bethesda, MD 20892, (301) 435–1178, *fujii@drg.nih.gov.*

Name of Committee: Genetic Sciences Integrated Review Group Mammalian Genetics Study Section.
Date: June 14–15, 2001.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Governor's House, 1615 Rhode Island Avenue, NW, Washington, DC 20036.
Contact Person: Camilla Day, PhD, 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.*

Name of Committee: Cardiovascular Sciences Integrated Review Group Hematology Subcommittee 1.
Date: June 14–15, 2001.
Time: 8:00 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Chevy Chase Holiday Inn, Terrace Room, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Robert Su, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892, (301) 435–1195.

Name of Committee: Immunological Sciences Integrated Review Group Experimental Immunology Study Section.
Date: June 14–15, 2001.
Time: 8:30 a.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Cathleen L. Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 30892, (301) 435–3566, *cooperc@csr.nih.gov.*

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group Metallobiochemistry Study Section.
Date: June 14–15, 2001.
Time: 8:30 a.m. to 6:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th St., NW., Washington, DC 20007.
Contact Person: John L. Bowers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1725.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group Integrative, Functional and Cognitive Neuroscience 7.
Date: June 14–15, 2001.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, Conference Center, One Washington Circle, Washington, DC 20037.
Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7844, Bethesda, MD 20892, (301) 435–1242.

Name of Committee: Cell Development and Function Integrated Review Group Cell Development and Function 1.
Date: June 14–15, 2001.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th St., NW., Washington, DC 20007.
Contact Person: Michael H. Sayre, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, Bethesda, MD 20892, (301) 435–1219.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group Tropical Medicine and Parasitology Study Section.
Date: June 14–15, 2001.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Jean Hickman, PhD, 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: Oncological Sciences Integrated Review Group Experimental Therapeutics Subcommittee 1.
Date: June 14–15, 2001.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt-Arlington at Washington's Key Bridge, 1325 Wilson Boulevard, Arlington, VA 22209–9990.
Contact Person: Philip Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718, *perkinsp@csr.nih.gov.*

Name of Committee: Biochemical Sciences Integrated Review Group Biochemistry Study Section.
Date: June 14–15, 2001.
Time: 8:30 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Sofitel, 1914 Connecticut Ave, NW., Washington, DC 20009.
Contact Person: Chhanda L. Ganguly, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892, (301) 435–1739.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 14–15, 2001.
Time: 8:30 a.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Central, 1501 Rhode Island Ave, NW., Washington, DC 20005.
Contact Person: Carl D. Banner, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5212, MSC 7850, Bethesda, MD 20892, (301) 435–1251, *bannerc@drg.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 14–15, 2001.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Governor's House Hotel, 17th & Rhode Island Avenue, NW., Washington, DC 20036.
Contact Person: Anita Miller Sostek, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, (301) 435–1260.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 14–15, 2001.
Time: 9:00 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: St James Suites, 950 24th Street, NW., Washington, DC 20037.
Contact Person: Ellen K. Schwartz, EDD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7770, Bethesda, MD 20892, (301) 435–0681, *schwarte@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: June 14–15, 2001.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, 301–435–1245, *richard.marcus@nih.gov.*

Name of Committee: Genetic Sciences Integrated Review Group Genetics Study Section.
Date: June 14–16, 2001.
Time: 9:00 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The River Inn, 924 25th St NW., Washington, DC 20037.
Contact Person: David J. Remondini, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7890, Bethesda, MD 20892, (301) 435–1038, *remondid@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: June 14–15, 2001.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Barcelo, 2121 P Street, NW., Washington, DC 20037.

Contact Person: Victoria S. Levin, MSW, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, (301) 435–0912, *levinv@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: June 15, 2001.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Paul D. Wagner, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7840, Bethesda, MD 20892, (301) 435–6809, *wagnerp@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 22, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–13332 Filed 5–25–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–650–01–1220–JG–064B]

Closure Order for Motorized Vehicle Use, Surprise Canyon Area of Critical Environmental Concern BLM Route P71, Panamint Mountains, Inyo County, CA

AGENCY: Bureau of Land Management, United States Department of the Interior.

ACTION: Notice of vehicle closure on BLM Route P71 in the Surprise canyon area of critical environmental concern, Panamint Mountains in Inyo County, California.

SUMMARY: Notice is hereby given that BLM Route P71 is closed to motorized vehicle use within the Surprise Canyon Area of Critical Environmental Concern (ACEC).

Order: The public lands from a point located in the vicinity of Chris Wicht Camp approximately four miles east of the intersection of BLM Route P71 and the Indian Ranch/Wingate Road to the boundary of Death Valley National Park within the Surprise Canyon ACEC is hereby closed to all motorized vehicle use. No person may use, drive, transport, park, let stand, or have charge or control over any motorized vehicle in the area located east of the closure signs and the BLM locked gate. Exemptions to this order may be granted to law enforcement and other emergency vehicles in the course of official duties. Exemptions to this order may be granted to the holders of private property in the vicinity of Panamint City in Death Valley National Park for reasonable access after receiving a written agreement and a key from the Ridgecrest Field Office Manager.

EFFECTIVE DATE: This closure is effective upon publication in the **Federal Register** and will remain in effect until rescinded by the authorizing official which will occur when a final decision on the disposition of the road will be made after the National Environmental Policy Act and California Desert Conservation Area Plan amendment processes are completed. BLM will implement the proposed action effective the date of publication in the **Federal Register**, without prior notice and opportunity for public comment, because of the imminent need for regulatory authority to prevent illegal/unauthorized vehicle intrusion into the Surprise Canyon Wilderness and potential risk to aquatic/riparian resources.

FOR FURTHER INFORMATION CONTACT: Field Office Manager, Bureau of Land Management, Ridgecrest Field Office, 300 South Richmond Road, Ridgecrest CA 93555, (760) 384–5405.

SUPPLEMENTARY INFORMATION: In March 16, 2000, the Center for Biological Diversity, et al. (Center) filed for injunctive relief in U.S. District Court, Northern District of California (Court) against the Bureau of Land Management (BLM) to immediately prohibit all grazing activities that may affect listed species. The Center alleges the BLM was in violation of section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under the CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

Although BLM has received biological opinions on selected activities, consultation on the overall CDCA Plan is necessary to address the cumulative effects of *all* the activities authorized by the CDCA Plan. Consultation on an overall plan is complex and the completion date uncertain. Absent consultation on the entire plan, the impacts of individual activities, when added together with the impacts of other activities in the desert, are not known. The BLM entered into negotiations with plaintiffs regarding interim actions to be taken to provide protection for endangered and threatened species pending completion of consultation on the plan. Agreement on these interim actions avoided litigation of plaintiffs' request for injunctive relief and the threat of an injunction prohibiting all activities authorized under the plan. These interim agreements allowed BLM to continue appropriate levels of activity throughout the planning area during the lengthy consultation process while providing protection to the desert tortoise and other listed species in the short term. By taking interim actions as allowed under 43 CFR 8364.1, BLM contributes to the conservation of the endangered and threatened species in accordance with 7 (a)(1) of the ESA. BLM also avoids making any irreversible or irretrievable commitment of resources which would foreclose any reasonable and prudent alternatives which might be required as a result of the consultation on the CDCA Plan in accordance with 7(d) for the ESA. In January 2001, the parties signed the Stipulation and Proposed Order concerning All Further Injunctive Relief.

This closure order is issued to provide interim protection of riparian habitat, water quality, sensitive wildlife resources, and wilderness values within the Surprise Canyon ACEC until such a time when the BLM completes a thorough review and analysis of various methods of access in Surprise Canyon and complies with the processes required by the National Environmental Policy Act and the California Desert Conservation Area Plan. This interim closure will allow BLM to properly evaluate and arrive at a final decision on environmentally acceptable methods of access in Surprise Canyon while protecting the canyon from further impact caused by the operation of off-

highway vehicles. Concerns over the effects of off-highway vehicle use in Surprise Canyon on environmental quality and natural resources have been raised in a lawsuit filed against the BLM, and these concerns need to be addressed through the processes required by the National Environmental Policy Act and the California Desert Conservation Area Plan.

The canyon riparian zone currently does not meet the BLM's minimum standards for a properly functioning riparian system due to soil erosion and streambed alterations caused by off-highway vehicle use. The Surprise Canyon ACEC supports several California BLM and California State sensitive plant and animal species that are dependant on a properly functioning riparian system.

The canyon will remain open for human use that does not entail the use of a motorized vehicle within the area closed by this order. Maps showing the affected area are available by contacting the Ridgecrest Field Office, California Desert Conservation Area, Ridgecrest, CA. A gate will be erected at the closure points and the affected area will be posted with public notices and standard motorized vehicle closure signs. The BLM will issue a final decision on allowable methods of public access in Surprise Canyon following completion of public scoping, and a National Environmental Policy Act (NEPA) compliance document. The NEPA compliance document will evaluate a full range of options for management of human access to Surprise Canyon within the area affected by the interim closure.

Authority for this closure is found in 43 CFR 8364.1. Violations of this order may be subject to the penalties provided according to 43 CFR 8360.0–7.

Dated: May 23, 2001.

Gail Acheson,

Acting Deputy State Director for Resources.

[FR Doc. 01–13538 Filed 5–25–01; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

Glen Echo Park, Montgomery County, MD

ACTION: Record of Decision.

I. Introduction

The Department of the Interior, National Park Service (NPS), has prepared this Record of Decision on the Final Management Plan/Environmental Impact Statement (FMP/EIS) for Glen Echo Park, Montgomery County, Maryland pursuant to the National Environmental Policy Act (NEPA) and Council of Environmental Quality (CEQ) regulations. This Record of Decision is a statement of the decision made, the background of the project, other alternatives considered, the basis for the decision, the environmentally preferable alternative, measures to minimize environmental harm, and public involvement in the decision making process.

II. Background of the Project

For over a century, Glen Echo Park has served the region as a center for education, entertainment and cultural development. This special site, which has been a National Chautauqua site (1891), an amusement park site (1899–1968), and an arts and cultural park (1971–present), is 1.5 miles northwest of Washington, DC and has been a haven for generations of area residents and visitors. On April 1, 1970 GSA received title to the 9.3-acre site. The site was acquired through a land exchange for the Old Emergency Hospital at 1711 New York Ave., NW., Washington, DC and was held surplus by the General Services Administration (GSA). From 1971–1976, the National Park Service (NPS) operated the park in cooperation with GSA and the park officially became part of NPS in 1976. When the land was acquired it contained a number of structures that were in very poor condition. Several were removed and others received minimal repair. From the very beginning, the NPS recognized the need to establish a Public/Private Partnership to both rehabilitate the structures and establish a creative education program that would reflect the spirit of the Chautauqua Assembly. In 1984, an NPS approved Management Facilities Program outlined a five-year program incorporating short and long-term goals and a scope of work for projects to be funded by the Federal government and private sector. Unfortunately, funds from both groups were limited, improvements were minor, and park management began to consider historic leasing. Local citizen opposition to such a proposal led to the formation of the Glen Echo Park Foundation, which was established in May 1987 to raise $3 million within five years for rehabilitation of the structures. The Foundation was unsuccessful in achieving its goal, and the park structures have continued to deteriorate.

By the mid-1990s, funding to rehabilitate decaying park structures was still not available and the park's resources were in danger of being lost. The National Park Service began a process through which a Management Plan (MP) could be developed. As part of that process, the NPS examined options for future operation of the park, including scenarios that assumed existing park resources would eventually be lost. Since the planning process began, Montgomery County, the State of Maryland, and the Federal government have all committed funding to support the stabilization and rehabilitation of the structures at Glen Echo Park. This funding, however, does not support improvements to the interior of the buildings, and does not help cover the park's operating expenses. Furthermore, as the structures continue to age, the maintenance needs of the park will continue to grow. A management plan for Glen Echo Park is needed to provide a framework for the continued management and operation of the park.

III. Decision (Selected Action)

The National Park Service will implement the preferred alternative, the Modified Public Partnership, identified in the FMP/EIS issued on March 9, 2001. Figure I illustrates the chosen management structure. Figure II illustrates the selected management zones for the park. The selected alternative is also the environmentally preferred alternative identified in the FMP/EIS. It will improve the visitor experience, maintain the traditional uses of the park, improve the diversity in its programs, and enhance the preservation of cultural and historic resources through an improved revenue structure. It is expected to create only minor environmental impacts and inconveniences to adjoining communities. As a part of this decision, the NPS will also implement measures to minimize adverse impacts to the environment (*i.e.* mitigations) (see VIII below).

The NPS has used public partnership arrangements very successfully at several parks. Based on this experience, along with the analysis of the potential environmental impacts contained within the FMP/EIS, the NPS believes the Modified Public Partnership alternative is the best arrangement for the park, the surrounding communities, and the park's users. Under the selected alternative, the NPS will enter into negotiations with Montgomery County, MD, to prepare a long-term agreement whereby Montgomery County would take over the majority of management and operations at Glen Echo Park. If the NPS and Montgomery County were unable to finalize an agreement, the NPS would seek another similar partner with

which to negotiate an agreement. Under the agreement, it is anticipated that Montgomery County would create a non-profit organization or other such entity to carry out its responsibilities. It is also anticipated that such an organization would have a Board of Directors (or other similar Board) that would have the responsibilities of managing and operating the park on a daily basis, and carrying out fundraising activities. [Hereafter, when the term "Board" is used, it is meant to include Montgomery County (or other party who enters into agreement with the NPS), and any such management body or structure, such as a non-profit corporation) that is used to carry out the terms of the agreement.]

Under the selected alternative, the Board would be responsible for ensuring all actions are consistent with Federal policies, NPS guidelines, and the terms of the agreement. The Board and the NPS would share day-to-day building and grounds maintenance responsibilities, with a limit on the NPS share to be specified in the cooperative agreement. The Board would be responsible for all life-cycle maintenance. It would also be responsible for custodial services in the common areas and non-lease space, negotiating and managing leases or agreements with cooperators, and carrying out other management tasks. Under this plan, all existing agreements between the NPS and the current cooperators would be terminated. The Board would negotiate new long-term agreements with cooperators and develop programs and activities consistent with park goals.

The NPS will continue to provide information and interpretive services for the park, some maintenance, ensure public safety, administer any NPS concession agreements, provide overall protection of the park's resources, and ensure compliance with the terms of the agreement. An operations and maintenance plan is to be a part of the agreement to ensure operations and maintenance meet NPS standards. Existing permits between the NPS and entities such as Potomac Electric and Power Company (PEPCO), the U.S. Army Corps of Engineers, and concessionaires will remain vested in the NPS, and will be renewed as needed.

It is anticipated that the new structure for generating park revenue for operational expenses will be based on a resident cooperator's gross annual revenue, or the gross annual receipts of a non-resident user (*e.g.,* social dancers). This structure is very similar to the existing method of park collections; however, revisions are necessary to increase revenue to the park and to make the system of collections more equitable for all park users. Final details of the park's collection structure will be determined by the Board of Directors and the new Executive Director.

Under the selected alternative, utilization is anticipated to increase slightly because of the renovation of existing park spaces, adding additional spaces. and increased marketing efforts. The Executive Director and staff will work with resident and non-resident cooperators and other park users to maximize attendance at existing events and to add activities during non-peak times. In addition, the Spanish Ballroom will be available for short-term rental and will continue to support the social dances.

In the short term, structures within the park will be stabilized and rehabilitated according to the provisions of the ongoing rehabilitation plan. All structures that are non-contributing structures to the historic district could potentially be removed as deemed appropriate by the Board and when approved by the NPS. Any new development at the park will be permitted provided it is consistent with the park's management zoning map and park mission goals, and as long as the total development area does not exceed 40% of the total park area. The NPS has approval authority over any new development and the responsibility to prepare appropriate natural and cultural resource compliance documentation for any new development.

Under the selected alternative, the Board of Directors will be responsible for fundraising subject to the provisions of its agreement with the NPS. Montgomery County plans to provide a $100,000 subsidy for the first four years of operation to the Board.

IV. Other Alternatives Considered

Four other alternatives were considered in the FMP/EIS. These can be characterized as follows:

A. No Action Alternative

The No Action Alternative proposes that the NPS would manage and operate Glen Echo park at current levels of service. An NPS site manager would manage both Glen Echo Park and the Clara Barton National Historic Site (NHS). Under this alternative, no changes would be made in the management of park resources, the provision of visitor services, or the upkeep of facilities. Limited funding for park staff would constrain the time available for staff to organize and promote park programs and events, thereby limiting implementation of the park's mission goals.

Under the No Action Alternative, the NPS would negotiate three-year contracts with the cooperators (resident and non-resident artists) that would be structured similarly to the existing contracts. The structure for collecting fees from resident cooperators and other park users also would be similar to the existing system. Resident cooperators would reimburse the park for the use of space and providing services by: contributing a small percentage of their gross annual revenues; paying a fee for each student enrolled in classes, workshops, and camps; and setting aside a fixed amount of each ticket sale. Constraints on other revenue generating methods would prohibit increasing the funding base. A fundraising organization would be associated with this alternative but would face the same challenge as the current organization in raising funds.

NPS would remain responsible for most maintenance efforts under the No Action Alternative. Building maintenance would be the responsibility of the NPS except for the interior leased areas that would be the responsibility of the cooperators. Grounds maintenance and custodial services for common areas and non-leased spaces would also be the responsibility of the NPS. Custodial service for leased spaces would be the responsibility of the tenant. Lifecycle maintenance would be the responsibility of NPS.

Beyond the physical improvements to park structures undertaken during the stabilization/rehabilitation effort, park resources would be maintained at a minimal level. Additional short-term changes would be limited to interior tenant fit-outs in renovated spaces at the cooperator's own expense. The level of maintenance the NPS could provide would depend on available funds that, under this alternative, are not anticipated to increase. Available funding from the Federal government would restrict long-term projects. It is anticipated that, eventually, park structures would require major capital improvement that the NPS would not be able to finance. It is possible some facilities would be closed and eventually removed and it is unlikely that additional new construction would take place.

B. NPS Management Alternative

The NPS Management Alternative proposes that the NPS would actively manage and operate Glen Echo Park at a somewhat higher level of service than the existing condition. An NPS site

manager would manage both Glen Echo Park and the Clara Barton NHS. The NPS would modify current staffing at the park by adding a marketing specialist, clerical/bookkeeping position, and adjusting maintenance staff assignments. The NPS would continue to work with the individuals and organizations offering classes and activities at the park, to produce class schedules and maintain class rosters, and to promote park's activities.

Under the NPS Management Alternative, the resident cooperators would assume a greater degree of responsibility for park operations than they currently possess. They would be responsible for the interior maintenance of leased spaces. New contracts would be negotiated and a new system for collecting fees from resident cooperators and short-term users would be implemented. These fees would vary slightly based on the type of activity offered, but would include space leases, short-term rental fees, and collecting a portion of program fees or ticket sales. The NPS and the individuals would negotiate new contracts that would reinforce the new management and operations structure of the park. Restrictions placed on use of these funds by regulations or policy may limit the effective use of the revenue generated.

NPS would remain responsible for most maintenance efforts, under the NPS Management Alternative. Building maintenance would be the responsibility of the NPS except for the interior leased areas that would be the responsibility of the cooperators. Grounds maintenance and custodial services for common areas and non-leased spaces would also be the responsibility of the NPS. Custodial service for leased spaces would be the responsibility of the tenant. Lifecycle maintenance would be the responsibility of NPS.

Under the NPS Management Alternative, little physical change is anticipated beyond the stabilization/rehabilitation effort. Additional short-term changes would be limited to tenant fit-outs in renovated spaces. Long-term projects primarily would be restricted to replacing the maintenance shed, building a small storage facility, redeveloping the Crystal Pool Plaza, and reconstructing the second floor of the Caretaker's Cottage. A fundraising organization is also proposed for this alternative. It would face the same challenges of the current organization under the No Action Alternative.

C. Public Partnership Alternative

This alternative is the same as the selected alternative, except in this alternative the NPS would be responsible for life-cycle maintenance costs. Life-cycle maintenance is unscheduled and non-routine improvements to a facility that extends its use and improves its condition over the years that it is in use. Examples of life-cycle maintenance are replacing roofs, electrical and mechanical systems, and plumbing, etc.

D. Non-Profit Partnership Alternative

The Non-Profit Partnership proposes a non-profit entity, such as a private individual, cooperating association, or other non-profit organization manage and operate Glen Echo Park. The NPS potentially could be involved in some aspects of park operations; however, the Non-Profit Partner would reimburse the NPS for their assistance. The NPS would have oversight over the actions of the Non-Profit Partner to ensure compliance with Federal policies and regulations and the agreement. The NPS mission-based activities, such as interpretation and law enforcement, would continue.

Under the Non-Profit Partnership, all of the existing agreements between NPS and the cooperators would be terminated. The Non-Profit Partner would negotiate agreements with artists, performers, and other resident and non-resident park users for performances and events and be responsible for the implementation of the park's mission goals.

The structure for generating park revenue under the Non-Profit Partnership establishes a consistent monthly base fee for all resident cooperators, and regular user groups, such as the social dancers, throughout the region. All revenue generated under this alternative would be consistent with the rules and regulations governing the type of partnership, i.e., cooperating association, cooperative agreements. This system creates an incentive for park users to achieve a particular level of utilization (i.e., number of students enrolled, number of classes offered, number of attendees) necessary to cover costs. As a result, overall park utilization is anticipated to increase under this alternative.

Under the Non-Profit Partnership, the renovation of park structures, creation of additional space, and increased marketing efforts would also contribute to increased utilization. The Non-Profit Partner would likely work with the resident and non-resident cooperators and other park users to maximize attendance at existing events and to add activities during non-peak times.

Building maintenance and life cycle costs would be the responsibility of Non-Profit Partner except for the interior leased areas that would be the responsibility of the cooperators. Grounds maintenance and custodial services for the common areas would be the responsibility of Non-Profit Partner. The Non-Profit might be required to reimburse Montgomery County and the State of Maryland for their $12 million investment in the rehabilitation of structures. If this were to occur the Non-Profit Partner would be unable to generate sufficient revenues to reimburse the state and local governments. The Non-Profit Partner would also conduct fundraising to supplement park income.

In the short term, structures within the park would be stabilized and rehabilitated according to the provisions of the rehabilitation plan. Under this alternative, all structures that are non-contributing structures to the historic district potentially could be removed as deemed appropriate by the Non-Profit Partner and when approved by the NPS. New development at the park would be permitted, provided it is consistent with the park's management zoning map and park mission goals, and as long as the total development area does not exceed 40% of the total park area. The NPS would have approval authority for any new development and would prepare appropriate natural and cultural resource compliance documentation.

V. Basis for Decision

After careful consideration of public comments received throughout the planning process, including comments on the Draft Management Plan/Environmental Impact Statement, the Modified Public Partnership Alternative has been selected by the National Park Service. This alternative will best preserve the valuable cultural and environmental resources at Glen Echo Park while continuing the park's mission as a cultural and educational center in the region.

The No-Action Alternative eventually would result in the deterioration or loss of significant cultural and historic resources. Under this alternative, no changes would be made in the management of park resources, the provision of visitor services, or the upkeep of facilities. Limited funding for park staff would constrain the time available for staff to organize and promote park programs and events or perform needed maintenance.

All of the alternatives have some adverse environmental impacts, as

identified in the FMP/EIS. The No Action alternative has the least impact on the natural environment and the surrounding area due to the smaller number of visitors anticipated. However, it has by far the greatest impact to cultural and historic resources. The other alternatives have slightly higher impacts to the natural environmental, but each is considered environmentally acceptable and not likely to cause substantial adverse impacts. However, the other alternatives do vary substantially in terms of their impacts to socio-economic and cultural resources.

In the NPS Management Alternative, there is some risk that cultural resources would deteriorate because all management responsibilities are placed on one public entity. Dependent upon Federal funding, the NPS may not be able to support necessary physical improvements. Consequently, a negative impact on cultural resources could result. Already, inadequate rehabilitation funding has caused the deterioration of resources, such as the Arcade Building. Although the NPS Management Alternative would ensure that the park's resources are protected, an increasing need for rehabilitation funding makes dependence on Federal funding risky.

The Non-Profit Partnership Alternative also presents significant risk to the protection of Glen Echo Park. Although the alternative would likely lead to the greatest increase of park utilization, there is considerable risk that the increased activity would lead to adverse impacts on the park's natural and cultural resources and on the surrounding community. The Non-Profit Partnership would be the least likely of the alternatives to mitigate impacts, such as traffic and parking from increased visitation, or to invest in long-term lifecycle maintenance improvements. Additionally, it is possible that the diversity of users would decline in this alternative as programming decisions prioritize those events with the greatest potential for positive economic returns over those that serve the public's interest. The potential for paying back the State and County governments for rehabilitation costs may also contribute to the decline of cultural resources and a diversity of uses.

The Public Partnership and the Modified Public Partnership offer distinct advantages over the other alternatives. By engaging local government in the management of the park, these alternatives should result in the greatest diversity of users and programs while protecting the park's resources. In addition, if a non-profit entity is used it can actively fundraise to supplement the park operations. Mitigation of transportation impacts is most likely under these alternatives because of the partnership between the two governments. Additional funding from Montgomery County for the first four years would also assist in the start-up of the management and operations.

The only difference between the Public Partnership and Modified Public Partnership is the responsibility of lifecycle maintenance costs. The Modified Public Partnership Alternative assumes the costs are the Board of Director's responsibility while the Public Partnership Alternative assumes major NPS responsibility. Since resource protection is more likely to occur if the park is not totally dependent upon Federal funding, the Modified Public Partnership Alternative has an advantage over the Public Partnership Alternative. Financial projections have also shown that the Modified Public Partnership could assume these costs over time without adversely affecting its financial status.,

Given these facts and the finding that the Modified Public Partnership Alternative is also the "environmentally preferable" alternative (see VIII below), the National Park Service has therefore selected the Modified Public Partnership Alternative to implement. The selected alternative will improve the visitor experience, maintain the traditional uses of the park, improve the diversity in its programs, and enhance the preservation of cultural and historic resources through an improved revenue structure, with only minor environmental impacts and inconveniences to adjoining communities.

VI. Findings on Impairment of Park Resources and Values

The National Park Service has determined that the implementation of the Modified Public Partnership Alternative will not constitute impairment to Glen Echo Park's resources and values. This conclusion is based on a thorough analysis of the environmental impacts described in the FMP/EIS, the public comments received, and the application of the provisions in NPS Management Policies 2001. While the plan has some minor negative impacts, these impacts only result from actions to preserve and restore other park resources and values. Overall, the Final Management Plan results in major benefits to park resources and values, opportunities for their enjoyment, and does not result in their impairment.

In determining whether impairment may occur, park managers consider the duration, severity, and magnitude of the impact; the resources and values affected; and direct, indirect, and cumulative effects of the action. According to National Park Service Policy, "An impact would be more likely to constitute an impairment to the extent that it affects a resource or value whose conservation is: (a) Necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park; (b) Key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or (c) Identified as a goal in the park's general management plan or other relevant National Park Service planning documents." (Director's Order 55)

This policy does not prohibit impacts to park resources and values. The National Park Service has the discretion to allow impacts to park resources and values when necessary and appropriate to fulfill the purposes of a park, so long as the impacts do not constitute impairment. Moreover, an impact is less likely to constitute impairment if it is an unavoidable result of an action necessary to preserve or restore the integrity of park resources or values.

The actions comprising the Modified Public Partnership Alternative will achieve the goals of the Final Management Plan in a comprehensive, integrated manner that takes into account the interplay between resource protection and visitor use. Actions implemented under the selected alternative that will cause overall negligible adverse impacts, minor adverse impacts, short-term impacts, and beneficial impacts to park resources and values, as described in the Final MP/EIS will not constitute impairment. This is because these impacts have limited severity and/or duration and will not result in appreciable irreversible commitments of resources. Beneficial impacts identified in the Final MP/EIS include effects related to restoring and protecting park resources and values. Thus, the National Park Service has determined that the implementation of the Modified Public Partnership Alternative will not result in any impairment of resources and values at Glen Echo Park.

VII. Environmentally Preferable Alternative

The environmentally preferable alternative is defined as " the alternative that will promote the National environmental policy as expressed in the National Environmental Policy Act's Section 101. Ordinarily, this means the alternative that causes the least damage

to the biological and physical environment; it also means the alternative which best protects, preserves, and enhances historic, cultural, and natural resources" ("Forty Most Asked Questions Concerning Council on Environmental Quality's (CEQ) National Environmental Policy Act Regulations," 1981). As indicated above, the selected alternative should result in the greatest diversity of users and programs while protecting the park's mission as a public resource. Further resource protection is most likely to occur under the selected alternative. Thus, the environmentally preferred alternative has been determined to be the Modified Public Partnership Alternative.

VIII. Measures To Minimize Environmental Harm

Measures to avoid or minimize environmental impacts that could result from the implementation of the selected alternative have been identified and incorporated into the selected action. These mitigation measures are presented in detail in the FMP/EIS. Mitigation measures are summarized by category below. Note: Where "NPS" is used in this section it is intended to mean either the NPS, the board, or agents of these, as appropriate.

A. Physical/Biological Resources:

- *Surface Hydrology:* The NPS will require an erosion and sedimentation control plan prior to any new construction activities at the park. This will minimize adverse effects to the park and surrounding areas. This plan will include measures to reduce or eliminate erosion of cleared areas and the transport of soil and sediment in surface runoff to drainage areas. This plan will also address measures to control stormwater runoff and prevent the discharge of pollutants into the storm sewer system.
- *Vegetation and Wildlife:* Prior to the construction of any new park structures not addressed in the FMP/EIS appropriate studies of potentially impacted vegetation and wildlife will be conducted. Mitigation for any loss of vegetation and wildlife associated with the proposed development would need to be approved by the NPS.
- *Hazardous Materials:* The park will continue to implement the NPS lead-based paint action plan. As a part of this plan, if future actions at the park require soil-disturbing activities, the NPS will identify and remedy any lead based paint issues associated with such activities. The NPS will also continue to be responsible for managing wastes with hazardous materials at Glen Echo Park and will not be able to transfer that responsibility to another management entity.
- *Noise:* All special events will comply with the NPS regulations regarding auditory disturbances or Montgomery County Guidelines, whichever are more stringent.

B. Socio-Cultural Resources

- *Land Use:* Construction of future park structures will occur only in the appropriate development areas as delineated in the park's management zoning diagram (Figure II). Once Bowdoin Avenue is relocated, the NPS will also allow public use of the land immediately west of the relocated Bowdoin Avenue.
- *Historic Resources:* The NPS will continue to consult with the Maryland State Historic Preservation Office on all activities that have the potential to affect the historic district. Demolition of historic structures contributing to the Glen Echo Park Historic District is not anticipated under the selected alternative. Demolition of any non-contributing structures within the district will need to be approved by the NPS, and will be subject to the requirements of the National Historic Preservation Act Section 106 process.
- *Archaeological Resources:* In the event of new construction, the NPS will undertake a survey to determine the likelihood of archaeological remains on the project site.
- *Visual Resources:* Any proposal for new development will be required to demonstrate that it would not adversely affect the existing visual environment of Glen Echo Park or infringe on the natural visual condition of the Potomac Palisades.

C. Transportation

- *Signage:* During events, the NPS will improve temporary signs leading visitors to remote and on-site parking to mitigate traffic congestion. The signs will have the standard white lettering on a brown background to further identify it with the park. Messages will indicate whether the on-site parking area is full and will include the appropriate direction to the remote parking area. Signs will be placed well in advance of the decision-making point at locations such as: MacArthur Boulevard southeast of the Sangamore Road intersection; MacArthur Boulevard northwest of the single lane bridge; Clara Barton Parkway Access Road south of the MacArthur Boulevard intersection; Goldsboro Road west of the Massachusetts Avenue intersection; Massachusetts Avenue southeast of the Sangamore Road intersection; and two signs at the intersection of MacArthur Boulevard and Goldsboro Road. These signs will be equipped with a hinged panel stating "Lot Full," which will indicate that the on-site parking area has reached capacity, and thereby direct motorists to a remote lot.

The NPS will also install permanent park directional signs on River Road and Wilson Lane to help redirect some park traffic to these routes. This should help disperse the traffic demand on the routes in the immediate vicinity of the park. Permanent signs will also be provided to direct visitors from the public transit bus stop(s).

Transit and Transportation Demand Management (TDM) strategies: The NPS will consult with Montgomery County and the Washington Metropolitan Transit Authority to improve Ride-On and Metrobus programs to better serve Glen Echo Park. In its advertisements, the NPS will publicize all available transit options and highly encourage all park users to use them every time they come to the park.

In addition to working to improve transit service and awareness, the NPS will further implement Transportation Demand Management (TDM) strategies that encourage visitors to use other alternative forms of transportation, such as walking, bicycles, carpooling, and ridesharing.

During prime events, parking areas within the park will be reserved for visitors who carpool or arrive with four or more people per vehicle. During events, visitors who cannot use transit or carpool will be highly encouraged to use a remote parking lot and ride a shuttle to the park. In addition, the NPS will work to improve advance notice to motorists regarding the traffic and parking conditions associated with major events and highly attended dances. This will reduce the need for motorists to search for a parking space, thereby reducing traffic.

When event information is distributed in advance of an event, the above transit and TDM information will be included in the materials.

- *Parking:* During special events, to prevent parking and congestion on residential streets, the NPS will place temporary signs and barricades at entrances to residential streets in the vicinity of the park. This is similar to what is done on the Town of Glen Echo streets to help reduce parking impacts on these streets.
- During special events the NPS will also enforce existing parking restrictions along MacArthur Boulevard to prohibit roadside parking and direct all off-site parking to the remote parking area(s). One such area that the NPS is pursuing

for additional use for this purpose is the National Imagery and Mapping Agency parking area on Sangamore Road. This parking area has historically been utilized for the Folk Festival, through arrangements made by the Washington Folklore Society.

D. Utilities

Stormwater: Future construction projects not addressed in the FMP/EIS will require appropriate environmental compliance procedures and documentation.

Water/Sanitary Sewer: NPS will consult with Montgomery County regarding any proposed modifications to service lines in the park.

- *Solid Waste:* The NPS will encourage the park's recycling program, work with concessionaires to reduce packaging and waste, and work with cooperators to reduce solid waste generation.

IX. Public and Interagency Involvement

There has been extensive public and interagency involvement throughout the development of the Draft and Final MP/EIS for Glen Echo. The initial five alternatives were presented to the public during a scoping meeting held on February 3, 1998, at Clara Barton Community Center. Press releases were sent to all of the local and metropolitan newspapers regarding the scoping meeting, and a **Federal Register** Notice was issued on January 15, 1998, for the February 3 meeting. In addition, two newsletters were prepared by the park in January and March 1998 and sent to 3,000 individuals and organizations listed on the mailing list. The purpose of the public scoping meeting was to solicit comments on the five proposed scenarios and to inform the public about the planning process for the MP/EIS for Glen Echo Park. Approximately 600 people attended the February 3rd meeting. In addition, the NPS received more than 1,000 written comments following the meeting. Due to the overwhelming response to the public scoping meeting and at the request of a Congressional Representative, the NPS decided that the comment period would be extended from March 3, 1998 (the standard 30 day period) to September 1, 1998. Extending the comment period would allow various groups and individuals to carefully review the five proposed management scenarios and to present additional scenarios for future consideration.

The enormous response to the public scoping meeting prompted Montgomery County Executive Douglas Duncan to convene a working group. The working group was comprised of representatives from a range of interests in the park including park users, the artist cooperators, the State of Maryland, Montgomery County, congressional staff members, and the NPS (as an information resource). The charge of this group was to explore and then make recommendations regarding a possible role for the County in the future management of Glen Echo Park.

County Executive Duncan held public meetings in March and August 1998 at Pyle Middle School in Bethesda, Maryland, to discuss a proposal that the County would submit to the NPS under the Public Partnership for the MP. Several hundred people attended each meeting. The County government offices publicized these meetings on the radio, through the Internet, and in local newspapers and fliers.

In August 1998, Executive Duncan presented the NPS with a proposed management scenario that recommended a partnership between Montgomery County and the NPS to rehabilitate and manage Glen Echo Park. The State of Maryland was identified as a partner to provide financial assistance for the rehabilitation efforts. These proposals called for the creation of a non-profit entity that would be charged with managing the day-to-day operations of the park as well as undertaking fundraising efforts to financially support park needs. A second public meeting was called by Montgomery County and held on August 3, 1998 with over 100 people in attendance. At this meeting, the "Duncan Proposal" was presented to the public for review and comment.

To foster additional public participation, the Draft MP/EIS was available for 60 days to the public and reviewing agencies. Notice of its availability was published August 15, 2000, and in the **Federal Register**, in local and regional newspapers, and on the World Wide Web. In addition, approximately 4,000 individuals and organizations were notified by mail. On September 7, 2000, the NPS also held a final public meeting on the Draft MP/EIS. Written comments on the Draft MP/EIS were received from a variety of public agencies, organizations, and individuals during the 60-day public review period that began August 15, 2000, and ended October 13, 2000. Oral comments on the Draft MP/EIS were received and transcribed during a public meeting held September 7, 2000, at the Glen Echo Park Spanish Ballroom. All comments received or postmarked within the review period were reviewed and all relevant comments were addressed in the Final MP/EIS.

The Final MP/EIS was published on March 9, 2001. It was distributed to applicable review agencies, organizations and interested citizens. In addition, it was available at local libraries and on the Internet at http:www.nps.gov/glec.

X. Conclusion

The Modified Public Partnership Alternative provides the most comprehensive and effective method among the alternatives considered for meeting the National Park Service's purposes, goals, and criteria for managing Glen Echo Park and for meeting national environmental policy goals. The selection of the Modified Public Partnership Alternative, as reflected in the analysis contained in the environmental impact statement, would not result in the impairment of park resources and would allow the National Park Service to conserve park resources and provide for their enjoyment by visitors.

BILLING CODE 4310–70–P

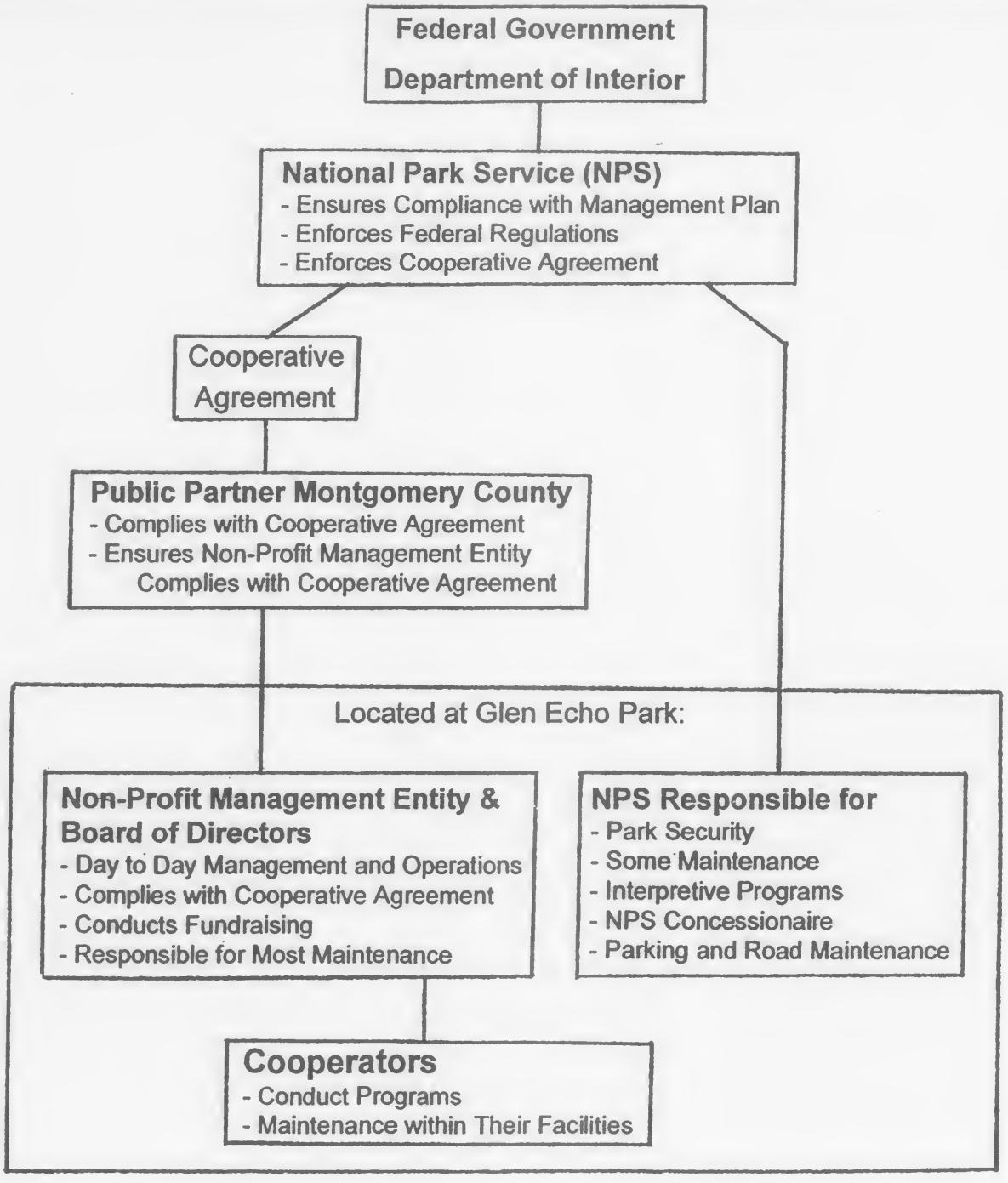
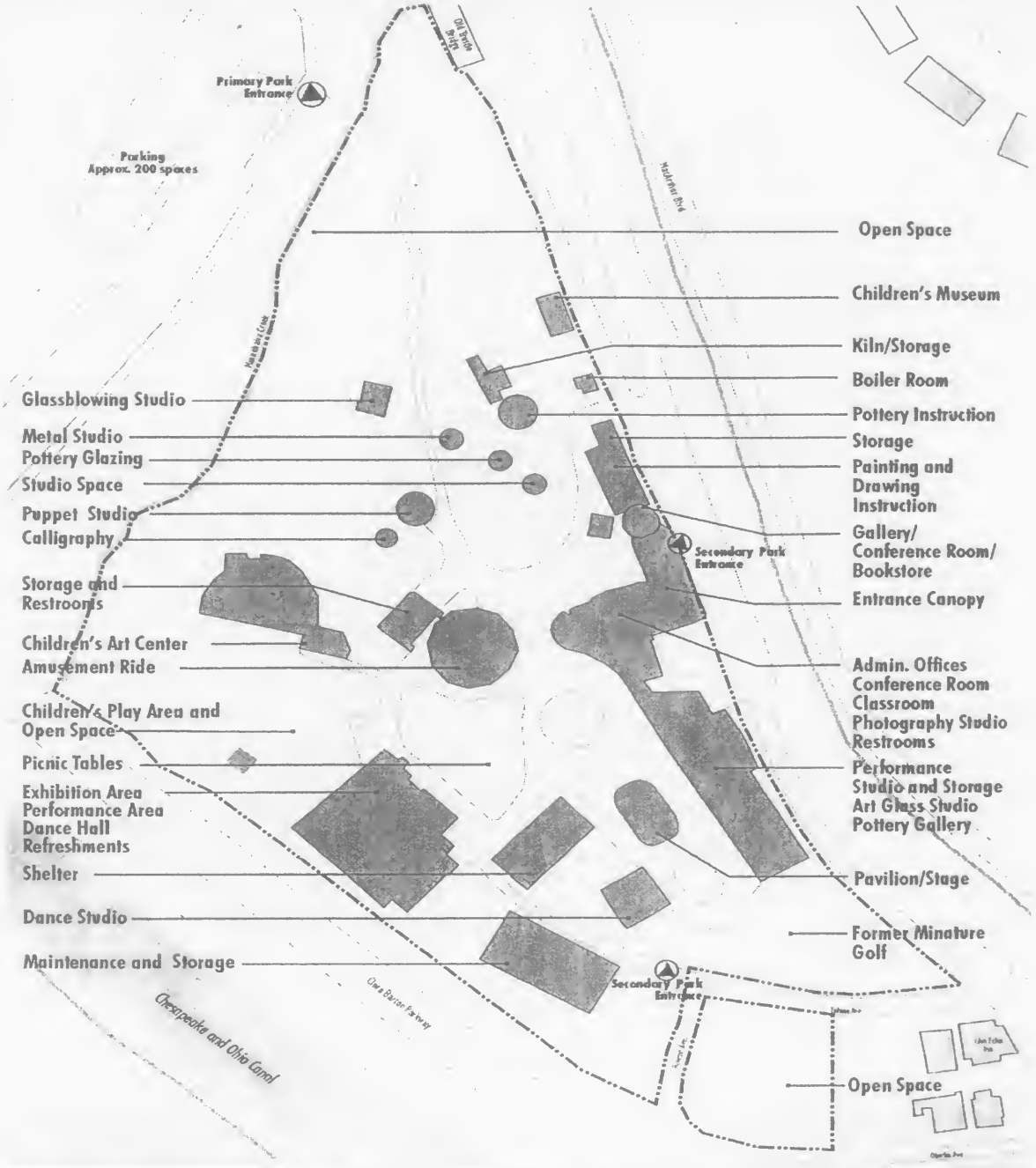


Figure I
Glen Echo Park Management Structure



Existing Park Uses

Glen Echo Park
Record of Decision

FIGURE III

Dated: April 25, 2001.

Terry R. Carlstrom,

Regional Director, National Capital Region.

[FR Doc. 01–13429 Filed 5–25–01; 8:45 am]

BILLING CODE 4310–70–C

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–458]

Certain Digital Display Receivers and Digital Display Controllers and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 24, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Silicon Image, Inc. of Sunnyvale, California. A supplement to the complaint was filed on May 15, 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 digital display receivers and digital display controllers and products containing same by reason of infringement of claims 1–12, 14, and 20 of U.S. Letters Patent 5,905,769. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint and supplement, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public*.

FOR FURTHER INFORMATION CONTACT: T. Spence Chubb, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2575.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2000).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on May 21, 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 digital display receivers or digital display controllers or products containing same by reason of infringement of claims 1–12, 14, or 20 of U.S. Letters Patent 5,905,769 and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Silicon Image, Inc., 1060 East Arques Avenue, Sunnyvale, CA 94086.

(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:

Genesis Microchip Inc., 165 Commerce Valley Dr., W., Thornhill, Ontario, Canada L3T 7V8

Genesis Microchip Corp., 2150 Gold Street, Alviso, California 95002

(c) T. Spence Chubb, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR § 210.13. Pursuant to 19 CFR §§ 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

Issued: May 22, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–13371 Filed 5–25–01; 8:45 am]

BILLING CODE 7020–02–U

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–891 (Final)]

Foundry Coke From China

AGENCY: United States International Trade Commission.

ACTION: Corrected schedule for the subject investigation.

EFFECTIVE DATE: May 21, 2001.

FOR FURTHER INFORMATION CONTACT: D.J. Na (202–708–4727), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public*.

SUPPLEMENTARY INFORMATION: On March 8, 2001, the Commission established a schedule for the conduct of the final phase of the subject investigation (66 FR 23727, May 9, 20001). Two dates in that

notice were incorrect; the correct dates are as follows:

The prehearing staff report will be placed in the nonpublic record on July 13, 2001 and 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 August 2, 2001.

For further information concerning this investigation see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This 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.

Issued: May 21, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–13369 Filed 5–25–01; 8:45 am]

BILLING CODE 7020–02–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–415 and 731–TA–933–934 (Preliminary)]

Polyethylene Terephthalate Film, Sheet, and Strip From India and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of countervailing duty investigation and antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty investigation No. 701–TA–415 (Preliminary) and antidumping investigations No. 731–TA–933–934 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 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 and Taiwan of polyethylene terephthalate film, sheet and strip that are alleged to be sold in the United States at less than fair value and that are alleged to be subsidized by the Government of India. Unless the Department of Commerce extends the time for initiation pursuant to section 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) and 1673a(c)(1)(B)), the Commission must reach preliminary determinations in these investigations in 45 days, or in this case by July 2, 2001. The Commission's views are due at Commerce within five business days thereafter, or by July 10, 2001.

For further information concerning the conduct of these investigations 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: May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk (202–205–3190), 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 these investigations may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on May 17, 2001, by DuPont Teijin Films, Wilmington, DE, Mitsubishi Polyester Film of America, Greer, SC, and Toray Plastics (America), Inc., North Kingston, RI.

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in these investigations 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 these investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations 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 these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to these investigations under the APO issued in the investigations, 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 these investigations for 9:30 a.m. on June 7, 2001, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Valerie Newkirk (202–205–3190) not later than June 4, 2001, to arrange for their appearance. Parties in support of the imposition of antidumping and countervailing duties in these investigations 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 June 12, 2001, a written brief containing information and arguments pertinent to the subject matter of the investigations. 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 investigations must be served on all other parties to the investigations (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: These investigations are 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: May 22, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–13370 Filed 5–25–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–432]

Certain Semiconductor Chips With Minimized Chip Package Size and Products Containing Same; Notice of a Commission Determination Not To Review an Initial Determination Extending the Target Date for Completion of the Investigation

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 an initial determination ("ID") of the presiding administrative law judge ("ALJ") extending the target date for completion of the above-captioned investigation to January 25, 2002.

FOR FURTHER INFORMATION CONTACT: Michael Diehl, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3095. Copies of the ALJ's ID 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. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record of this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: On April 27, 2000, the Commission instituted this investigation based on a complaint by Tessera, Inc. ("Tessera"), alleging a violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain semiconductor chips with minimized package size, and products containing same, by reason of infringement of at least claims 6 and 22 of U.S. Letters Patent 5,679,977 and claims 1, 3, and 11 of U.S. Letters Patent 5,852,326, both owned by Tessera. 65 FR 25758 (May 3, 2000). Named as respondents were Texas Instruments Incorporated ("TI"), Sharp Corporation, and Sharp Electronics Corporation. On March 2, 2001, the Commission determined not to review an ID by the ALJ in which he granted Tessera's motion to withdraw all allegations as to TI, and to terminate the investigation as to TI. On June 2, 2000, the ALJ issued Order No. 4, setting the target date for completion of the investigation as May 14, 2001. On August 23, 2000, the ALJ issued Order No. 6, modifying the target date to August 14, 2001.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and Commission rule 210.42, 19 CFR 210.42.

By order of the Commission.

Issued: May 22, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–13372 Filed 5–25–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2139–01]

Immigration and Naturalization Service Airport and Seaport Inspection User Fee Advisory Committee Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of meeting.

Committee meeting: Immigration and Naturalization Service Airport and Seaport Inspections User Fee Federal Advisory Committee.

Date and time: Wednesday, August 8, 2001, at 1 p.m.

Place: Immigration and Naturalization Service Headquarters, 425 I Street NW., Washington, DC 20536, Shaughnessy Conference Room, Sixth Floor.

Status: Open. Twenty-second meeting of this Advisory Committee.

Purpose: Performance of advisory responsibilities to the Commissioner of the Immigration and Naturalization Service pursuant to section 286(k) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1356(k) and the Federal Advisory Committee Act 5 U.S.C. app. 2. The responsibility of this standing Advisory Committee is to advise the Acting Commissioner of the Immigration and Naturalization Service on issues related to the performance of airport and seaport immigration inspection services. This advice should include, but need not be limited to, the time period during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. These responsibilities are related to the assessment of an immigration user fee pursuant to section 286(d) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1356(d). The Advisory Committee focuses its attention on those areas of most concern and benefit to travel industry, the traveling public, and the Federal Government.

Agenda:

1. Introduction of the Committee members.
2. Discussion of administrative issues.
3. Discussion of activities since last meeting.
4. Discussion of specific concerns and questions of Committee members.
5. Discussion of future traffic trends.
6. Discussion of relevant written statements submitted in advance by members of the public.
7. Scheduling of next meeting.

Public participating: The meeting is 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 5 days prior to the meeting. Members of the public many submit written statements at any time before or after the meeting to contact person for consideration by this Advisory Committee. Only written statements received by the contact person at least 5 days prior to the meeting will be considered for discussion at the meeting.

Contact person: Charles D. Montgomery, Office of the Assistant Commissioner, Inspections, Immigration and Naturalization Service, Room 4064, 425 I Street NW., Washington, DC 20536; telephone (202) 616–7498; fax: (202) 514–8345; e-mail: charles.d.montgomery@usdoj.gov.

Dated: May 15, 2001.

Kevin D. Rooney,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–13377 Filed 5–25–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Extension/Change in Solicitation for a Cooperative Agreement—"Executive Leadership Training for Women"

AGENCY: National Institute of Corrections, Justice.

ACTION: Extension/change in solicitation for a cooperative agreement.

SUMMARY: The Department of Justice, National Institute of Corrections (NIC) announces an extension of the closing date and change in requirements and funding to the notice of a solicitation for a cooperative agreement in Fiscal Year 2001 for "Executive Leadership Training for Women" which was printed in the May 1, 2001 edition (Volume 66, Number 84).

Change in Requirement and Funding: The closing date is extended to June 22, 2001. The change in the closing date eliminates the requirement of attendance at the June 20–24, 2001 class at the Searles Castle and is substituted with the requirement to attend a minimum of two days of a class at the Searles Castle during the week of July 30–August 3, 2001. An additional funding amount of $50,000 is added to the agreement to assure adequate resources to implement an evaluation component of the program. Note that the applicant is not required to fully develop the model within the application but must demonstrate a willingness to work in collaboration with the recipient of the current cooperative agreement "Assessment and Impact of Executive Leadership Training for Women." Some possible evaluation models however may be suggested or discussed. It is anticipated that additional multi-year funding will be available to enhance the evaluation component. Applicants may request a copy of the current program's participant manual by contacting Andie Moss through email or phone as listed below.

Deadline for the Receipt of Applications: Applications must be received by 4:00 pm Eastern Daylight Savings Time on Friday, June 22, 2001. They should be addressed to: Director, National Institute of Corrections, 320 First Street, NW., Washington, DC 20534. Hand delivered applications should be brought to 500 First Street, NW., 7th Floor, Washington, DC 20534. The front desk will call Bobbi Tinsley at (202) 307–3106, extension 0 for pickup.

Addresses and Further Information: A copy of this announcement, application and forms may be obtained through the NIC web site: *http://www.nicic.org* (Click on "Cooperative Agreements"). If a written copy is needed contact Judy Evens, Cooperative Agreement Control Office 1–800–995–6423 x 44222 or (202) 307–3106 ext. 44222, or e-mail her at *jevens@bop.gov*) All technical assistance/or programmatic questions concerning the announcement should be directed to Andie Moss, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534 or by calling 800–995–6423, ext. 30485 or 202–307–3106, ext. 30485, or e-mail: *amoss@bop.gov*. Applicants may request a participant's manual of the current program through Andie Moss.

Number of Awards: One (1).

NIC Application Number: 01P04. This number should appear as a reference line in your cover letter and also in box 11 of Standard Form 424.

Catalog of Federal Domestic Assistance Number: 16.603.

Dated: May 22, 2001.

Larry Solomon,

Deputy Director, National Institute of Corrections.

[FR Doc. 01–13347 Filed 5–25–01; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

May 21, 2001.

The Department of Labor (DOL) has submitted the following emergency processing public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), by May 30, 2001.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Type of Review: Emergency.

Agency: Employment and Training Administration (ETA).

Title: Reporting and Performance Standards System for Migrant and Seasonal Farmworker Programs Under Title I, Section 167 of the Workforce Investment Act (WIA).

OMB Number: 1205–0NEW.

Affected Public: State, Local, or Tribal Government; Not-for-profit institutions.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Reporting and recordkeeping requirements	Number of respondents	Number of annual responses	Frequency	Estimated time per response (hours)	Burden hours
Plan Narrative	53	53	Annually	20	1,060
Data Record	53	42,250	On occasion	2	84,500
Report from Data Record	53	212	Quarterly	1	212
Form ETA 9093, Budget Information Summary	53	53	Annually	15	795
Form ETA 9094, Program Planning Summary	53	53	Annual	16	848
Form ETA 9095, Program Status Summary	53	212	Quarterly	7	1,484

Reporting and recordkeeping requirements	Number of respondents	Number of annual responses	Frequency	Estimated time per response (hours)	Burden hours
Totals		42,833			88,899

Description: This is a proposed collection of participant information relating to the operation of employment and training programs for Migrant and Seasonal Farmworkers under title I, section 167 of the Workforce Investment Act (WIA). It also contains the basis of the new performance standards system for WIA section 167 grantees.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–13383 Filed 5–25–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0239 (2001)]

Voluntary Protection Program Application Information; Extension of the Office of Management of Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of an opportunity public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information-collection requirements of the Voluntary Protection Program.

REQUEST FOR COMMENT: The Agency has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

DATES: Submit written comments on or before July 30, 2001.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0239 (2001), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Cathy Oliver, Division of Voluntary Programs, Office of Cooperative Programs, Directorate of Federal-State Operations, OSHA, Room N–3700, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–2213. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information-collection requirements for the Voluntary Protection Program is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Rogelio Carrasco at (202) 693–2213. For electronic copies of this ICR, contact OSHA on the Internet at *http://www.osha.gov* and select "Information Collection Requests."

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effect to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing information-collections requirements in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of information burden is correct. The Occupational Safety and Health Act of 1970 (the "Act") authorizes the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe and unhealthful working conditions in employment covered by the Act.

The Voluntary Protection Program (VPP) (47 FR 29025), adopted by OSHA established the efficacy of cooperative action among government, industry, and labor to address worker safety and health issues and to expand worker protection. To quality, employers must meet OSHA's rigorous safety and health management criteria, which focus on comprehensive management systems and active employee involvement to prevent or control worksite safety and health hazards. Employers who qualify generally view OSHA standards as a minimum level of safety and health performance, and set their own more stringent standards, wherever necessary, to improve employee protection.

Prospective VPP worksites must submit an application that includes:

- General site information (i.e., site, corporate, and collective bargaining contact information).
- Injury and illness rate performance information (i.e., number of employees and/or applicable contractors on site, type of work performed and products produced, Standard Industrial Code, and Recordable Injury and Illness Case Incidence Rate information).
- Safety and health program information (i.e., a copy of the site's safety and health program and/or a description of the program; and a description of how the program successfully addresses management leadership and employee involvement, worksite analysis, hazard prevention and control, and safety and health training).

OSHA uses this information to determine whether a worksite is ready for a VPP onsite evaluation and as a verification tool during VPP onsite evaluations. Without this information, OSHA would be unable to determine which sites are ready for VPP status.

Each current VPP worksite is also required to submit an annual evaluation, in narrative format, that addresses how that site is continuing its adherence to programmatic requirements. OSHA needs this information to ensure that the worksite remains qualified to participate in the VPP in the three to five years between onsite evaluations. Without this information, OSHA would be unable to determine whether sites are maintaining excellent safety and health management systems during this interim period.

VPP worksite employees may apply to participate in the VPP Volunteers Program. The VPP Volunteers Program was established as a means to leverage OSHA's limited resources. Through this program, safety and health professionals employed at VPP sites are trained to participate as team members during VPP

onsite evaluations. In that capacity, VPP Volunteers may review company documents, assist with worksite walkthroughs, interview employees, and assist in preparing VPP onsite evaluation reports. Potential VPP Volunteers must submit a VPP Volunteers Application that includes:

- General contact information (i.e. applicant's name, professional credentials, site/corporate contact information, etc.).
- A resume or the Optional Application for Federal Employment (OF–612) form.
- Confidential Financial Disclosure Report (OGE Form 450).
- Waiver of Claims Against the Government.
- Department of Labor Request for Name Check (DL–68).

OSHA uses the contact information to arrange for VPP Volunteer participation at VPP onsite evaluations, send congratulatory letters, and inform them of their status in the program. The resume or OF–612 and the DL–68 are used to determine whether an applicant is qualified to participate in the VPP Volunteers Program. The OGE Form 450 is used to ensure that VPP Volunteers' do not participate in evaluations at sites where there may be a conflict of interest. The Waiver of Claims Against the Government protects OSHA against liability.

II. Proposed Actions

OSHA proposes to extend the Office of Management and Budget's (OMB) approval of the collection-of-information (paperwork) requirements necessitated by the Voluntary Protection Program. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these information-collection requirements.

Type of Review: Extension of currently approved information-collection requirements.

Title: Voluntary Protection Program Application Information.

OMB Number: 1218–0239

Affected Public: Business or other for profits; and individuals or households.

Number of Respondents: 171 applications from potential VPP worksites + 711 annual evaluations from current VPP worksites (3-year average) + 75 applications from potential VPP Volunteers per year (3-year average) = 957 total respondents.

Frequency: VPP applications are submitted once, VPP annual evaluations are submitted once per year, and VPP Volunteer Applications are submitted once every three years.

Average Time Per Response: 200 hours for worksites submitting VPP applications: 20 hours for worksites submitting a VPP annual evaluation, and 1 hour and 20 minutes for individuals submitting VPP Volunteer Applications.

Estimated Total Burden Hours: 34,200 annual hours for worksites submitting VPP applications (3-year average) + 14,220 annual hours for worksites submitting a VPP annual evaluation (3-year average) + 102 annual hours for individuals submitting VPP Volunteer Applications (3-year average) = 48,522 total burden hours per year (3-year average).

Estimated Cost (Operation and Maintenance): $0.

III. Authority and Signature

R. Davis Layne, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, DC, on May 22, 2001.

R. Davis Layne,

Acting Assistant Secretary of Labor.

[FR Doc. 01–13382 Filed 5–25–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–1–89]

Intertek Testing Services, NA, Inc., Renewal of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the Agency's final decision on the applications of Intertek Testing Services, NA, Inc. (ITSNA), for renewal of its recognition as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7.

EFFECTIVE DATE: This renewal becomes effective on May 29, 2001, and will be valid until May 29, 2006, unless terminated or modified prior to that date, in accordance with 29 CFR 1910.7.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3653, Washington, DC 20210, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

The Occupational Safety and Health Administration (OSHA) hereby gives notice of the renewal of recognition of Intertek Testing Services, NA, Inc. (ITSNA), as a Nationally Recognized Testing Laboratory (NRTL). ITSNA's renewal covers its existing scope of recognition, which may be found in OSHA's informational web page for the NRTL (*http://www.osha-slc.gov/dts/otpca/nrtl/its.html*). We maintain such a web page for each NRTL.

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in § 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, OSHA can accept products "properly certified" by the NRTL.

The Agency processes applications by an NRTL for initial recognition or for expansions or renewal of this recognition following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on an application. These notices set forth the NRTL's scope of recognition or modifications of this scope.

The renewal covered by this current notice applies only to the administrative, testing, and certification facilities that are part of the ITSNA organization and operations as an NRTL. No part of the recognition applies to any other part of ITSNA, or to any other legal entity, subsidiary, facility, operation, unit, division, or department of Intertek Testing Services Ltd. (ITSLtd), which encompasses ITSNA. The term "ITSNA" also represents the NRTL's predecessors, "ETL" and/or "InchcapeNA," as appropriate.

When first recognized as an NRTL, the organization's name was ETL Testing Laboratories, Inc. (ETL). According to the preliminary **Federal Register** notice for the recognition (54 FR 8411, 2/28/89), ETL was part of Inchcape Inspection and Testing Services, U.S.A., Inc. (IITS), based in New York. IITS was in turn owned by

Inchcape plc, based in the United Kingdom. As explained in the preliminary notice (referenced below), ITSNA is currently owned by Intertek Testing Services Ltd. (ITSLtd), which is also based in the United Kingdom.

In the **Federal Register** notice of the preliminary finding, we provided an abstract of name and other changes pertaining to the ITSNA recognition. However, for brevity, we do not repeat it in this current notice. You should refer to this preliminary notice (referenced above) if you are interested in reviewing this information.

OSHA published the required notice of its preliminary findings on the renewal in the **Federal Register** (see 63 FR 69676, 12/17/98). However, this notice also covered applications submitted by ITSNA for expansion of its recognition, which we have granted separately, as further explained below. The December 1998 notice included a preliminary finding that ITSNA could meet the requirements in 29 CFR 1910.7 for renewal and expansion of its recognition, subject to certain conditions, and invited public comment on the applications by February 16, 1999. OSHA received no comments concerning this notice.

Regarding the renewal, ITSNA, as ETL, received its recognition as an NRTL on September 13, 1989 (see 54 FR 37845), for a period of five years ending September 13, 1994. Appendix A to 29 CFR 1910.7 stipulates that the period of recognition of an NRTL is five years and that an NRTL may renew its recognition by applying not less than nine months, nor more than one year, before the expiration date of its current recognition. ETL requested renewal of its recognition on September 29, 1993 (see Exhibit 30A), within the time allotted, and ITSNA has retained its recognition pending OSHA's final decision in this renewal process.

OSHA had temporarily withheld its consideration of the renewal and the expansion requests pending resolution by the NRTL of discrepancies noted at its facilities during OSHA audits. Staff of the OSHA NRTL Program accepted resolution of the discrepancies in December 1996, permitting OSHA to resume processing all the requests it had received from ITSNA.

After publication of the December 1998 preliminary notice, the Agency delayed publication of the final notice for the renewal and expansion pending resolution of certain requests made by ITSNA. In April 2000, ITSNA submitted information pertinent to its requests that permitted OSHA to proceed with a final notice for the expansion applications (65 FR 71122, 11/29/00). However, the information required further review to render a decision on the renewal. The Agency has now completed this review and has determined that it can grant the renewal.

For purposes of processing the renewal and expansion requests, OSHA performed a number of on-site reviews (evaluation) of ITSNA facilities. ITSNA has addressed any discrepancies noted by the assessors following the review, and the assessors recommended renewal of ITSNA's recognition (see Exhibits 31A–31E).

The following is a chronology of the other **Federal Register** notices published by OSHA concerning ITSNA's recognition, all of which involved an expansion of recognition: A request announced on October 26, 1990 (55 FR 43229) and granted on December 18, 1990 (55 FR 51971; see correction, 56 FR 2953 1/25/91); a request announced on November 18, 1992 (57 FR 54422) and granted on July 13, 1993 (58 FR 37749; see correction, 58 FR 47001, 9/3/93); a request announced on August 9, 1996 (61 FR 41659) and granted on November 20, 1996 (61 FR 59111; see correction, 63 FR 1126, 1/8/98); and a request announced on August 8, 1997 (62 FR 42829) and granted on December 1, 1997 (62 FR 63562).

You may obtain or review copies of all public documents pertaining to the application by contacting the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N2625, Washington, DC 20210. You should refer to Docket No. NRTL–1–89, the permanent record of public information on the ITSNA recognition.

The current addresses of the ITSNA testing facilities recognized by OSHA are:

ITSNA Atlanta, 1950 Evergreen Boulevard, Duluth. Georgia 30096

ITSNA Antioch (formerly Pittsburg), 2200 Wymore Way, Antioch, California 94509*

ITSNA Boxborough, 70 Codman Hill Road, Boxborough, Massachusetts 01719*

ITSNA Cortland, 3933 U.S. Route 11, Cortland, New York 13045

ITSNA Los Angeles, 27611 LaPaz Road, Suite C, Laguna Niguel, California 92677

ITSNA Madison, 8431 Murphy Drive, Middleton, Wisconsin 53562

ITSNA Minneapolis (Oakdale), 7435 Fourth Street North, Lake Elmo, Minnesota 55042

ITSNA San Francisco, 1365 Adams Court, Menlo Park, CA 94025

ITSNA Totowa, 40 Commerce Way, Unit B, Totowa, New Jersey 07512

ITSNA Vancouver, 211 Schoolhouse Street, Coquitlam, British Columbia, V3K 4X9 Canada

ITS Hong Kong NA, Limited, 2/F., Garment Centre, 576 Castle Peak Road, Kowloon, Hong Kong*

ITS Taiwan NA, Limited, 14/F Huei Fung Building, 27, Chung Shan North Road, Sec. 3, Taipei 10451, Taiwan*

* A different address or different name appeared in the notice of preliminary finding.

Programs and Procedures

The renewal of recognition includes ITSNA's continued use of the following supplemental programs, based upon the criteria detailed in the March 9, 1995 **Federal Register** notice (60 FR 12980, 3/9/95). This notice lists nine (9) programs and procedures (collectively, programs), eight of which an NRTL may use to control and audit, but not actually to generate, the data relied upon for product certification. An NRTL's initial recognition will always include the first or basic program, which requires that all product testing and evaluation be performed in-house by the NRTL that will certify the product. OSHA previously granted ITSNA recognition to use these programs, which are listed, as shown below, in OSHA's informational web page on the ITSNA recognition (http://www.osha-slc.gov/dts/otpca/nrtl/its.html).

Program 2: Acceptance of testing data from independent organizations, other than NRTLs.

Program 3: Acceptance of product evaluations from independent organizations, other than NRTLs.

Program 4: Acceptance of witnessed testing data.

Program 5: Acceptance of testing data from non-independent organizations.

Program 6: Acceptance of evaluation data from non-independent organizations (requiring NRTL review prior to marketing).

Program 8: Acceptance of product evaluations from organizations that function as part of the International Electrotechnical Commission Certification Body (IEC-CB) Scheme.

Program 9: Acceptance of services other than testing or evaluation performed by subcontractors or agents.

OSHA developed these programs to limit how an NRTL may perform certain aspects of its work and to permit the activities covered under a program only when the NRTL meets certain criteria. In this sense, they are special conditions that the Agency places on an NRTL's recognition. OSHA does not consider these programs in determining whether an NRTL meets the requirements for recognition under 29 CFR 1910.7.

However, these programs help to define the scope of that recognition.

Additional Condition

This notice also contains a condition that OSHA currently requires ITSNA to meet in order to be recognized as an NRTL. This condition, listed first under *Conditions* below, applies in addition to the other conditions below that OSHA normally imposes in its recognition of an organization as an NRTL. As explained in the final notice for the expansion (65 FR 71122, 11/29/00) and in the preliminary notice (63 FR 69682, 12/17/98), ITSNA currently owns Compliance Design, a manufacturer of laboratory test equipment. If ITSNA were to certify the types of products manufactured or sold by Compliance Design or by an entity owned or controlled by ITSLtd, ITSNA's parent company, ITSNA would no longer meet the requirement in 29 CFR 1910.7 for complete independence. OSHA imposed the special condition on ITSNA's recognition to mitigate or eliminate situations that will cause it to fail to meet the independence requirement. If ITSNA or its owner were to develop material interests that might have an undue influence on ITSNA's NRTL operations, OSHA would need to reevaluate ITSNA's recognition. OSHA would then provide ITSNA with an opportunity to take corrective action. If ITSNA did not adequately resolve the problem, OSHA would begin the process to revoke its recognition as an NRTL.

Final Decision and Order

The NRTL Program staff has examined the applications, the assessor's reports, and other pertinent information. Based upon this examination and the assessor's recommendation, OSHA finds that Intertek Testing Services NA, Inc., has met the requirements of 29 CFR 1910.7 for renewal of its NRTL recognition. The renewal applies to the sites listed above. In addition, it covers the test standards listed below, and it is subject to the limitations and conditions, also listed below. Pursuant to the authority in 29 CFR 1910.7, OSHA hereby renews the recognition of ITSNA, subject to these limitations and conditions.

Limitations

Renewal of Recognition of Facilities

OSHA limits the renewal of recognition of ITSNA to the 12 sites listed above. In addition, similar to other NRTLs that operate multiple sites, the Agency's recognition of any ITSNA testing site is limited to performing testing to the test standards for which OSHA has recognized ITSNA, and for which the site has the proper capability and control programs. ITSNA uses only the "ETL" and "WHI" marks for its NRTL operations. Currently, only ITSNA's Cortland location issues the authorization to use the "ETL" certification mark or certifications. Similarly, only its Vancouver, Antioch (formerly Pittsburg), and Madison sites issues the authorization to use the "WHI" certification mark or certifications. OSHA must review and accept any other ITSNA site before that site authorizes use of either mark for ITSNA's NRTL operations.

Renewal of Recognition of Test Standards

OSHA further limits the renewal of recognition of ITSNA to testing and certification of products to demonstrate conformance to the test standards listed below (see Listing of Test Standards). OSHA has determined that each test standard meets the requirements for an appropriate test standard, within the meaning of 29 CFR 1910.7(c). Some of the test standards for which OSHA previously recognized ITSNA were no longer appropriate at the time of preparation of the preliminary notice, primarily because they had been withdrawn by the standards developing organization. As a result, we have excluded these test standards in the listing below. However, under OSHA policy, the NRTL may request recognition for comparable test standards, i.e., other appropriate test standards covering similar type of product testing. Since a number of NRTLs are affected by such withdrawn standards, OSHA will publish a separate notice to make the appropriate substitutions for ITSNA and other NRTLs that were recognized for these standards. The Agency has contacted these NRTLs regarding this matter.

This notice includes all of OSHA's current limitations on ITSNA with regard to the standards listed below. These limitations appear at the end of the list of standards, and standards to which a specific limitation applies are denoted by the use of asterisks. In addition, one limitation pertaining to hazardous location testing is set forth under "Other Limitations," which follows the listing of test standards.

The Agency's recognition of ITSNA, or any other NRTL, for a particular test standard is always limited to equipment or materials (products) for which OSHA standards require third party testing and certification before use in the workplace. An NRTL's scope of recognition excludes any product(s) falling within the scope of the test standard for which OSHA has no such requirements.

Listing of Test Standards

ANSI A90.1 Safety Standard for Belt Manlifts
ANSI C37.013* AC High-Voltage Generator Circuit Breakers Rated on a Symmetrical Current
ANSI C37.13* Low Voltage AC Power Circuit Breakers Used in Enclosures
ANSI ANSI C37.14* Low Voltage DC Power Circuit Breakers Used in Enclosures
ANSI C37.17* Trip Devices for AC and General Purpose DC Low-Voltage Power Circuit Breakers
ANSI C37.18* Enclosed Field Discharge Circuit Breakers for Rotating Electric Machinery
ANSI C37.20.1* Metal-Enclosed Low Voltage Power Circuit Breaker Switchgear
ANSI C37.20.2* Metal-Clad and Station-Type Cubicle Switchgear
ANSI C37.20.3* Metal-Enclosed Interrupter Switchgear
ANSI C37.21 Control Switchboards
ANSI C37.29* Low-Voltage AC Power Circuit Protectors Used in Enclosures
ANSI C37.38* Gas-Insulated, Metal-Enclosed Disconnecting, Interrupter and Grounding Switches
ANSI C37.46* Power Fuses and Fuse Disconnecting Switches
ANSI C37.50* Low-Voltage AC Power Circuit Breakers Used in Enclosures—Test Procedures
ANSI C37.51* Metal-Enclosed Low-Voltage AC Power Circuit-Breaker Switchgear Assemblies—Conformance Test Procedures
ANSI C37.55* Metal-Clad Switchgear Assemblies—Conformance Test Procedures
ANSI C37.57* Metal-Enclosed Interrupter Switchgear Assemblies—Conformance Testing
ANSI C37.90* Relays and Relay Systems Associated with Electric Power Apparatus
ANSI C37.121* Unit Substations—Requirements
ANSI C57.12.00* Distribution, Power and Regulating Transformers—General Requirements
ANSI C57.13* Instrument Transformers—Requirements
ANSI C62.11* Metal-Oxide Surge Arresters for AC Power Circuits
ANSI/ISA S12.12** Electrical Equipment for Use in Class I, Division 2, Hazardous (Classified) Locations
ANSI K61.1 Storage and Handling of Anhydrous Ammonia (CGA G–2.1)
ANSI S82.02.01 Electrical and Electronic Test, Measuring, Control

and Related Equipment: General Requirements
ANSI Z21.1 Household Cooking Gas Appliances
ANSI Z21.5.1 Gas Clothes Dryers—Volume I—Type 1 Clothes Dryers
ANSI Z21.5.2 Gas Clothes Dryers—Volume II—Type 2 Clothes Dryers
ANSI Z21.10.1 Gas Water Heaters—Volume I—Storage Water Heaters with Input Ratings of 75,000 Btu per Hour or less
ANSI Z21.10.3 Gas Water Heaters—Volume III—Storage, Circulating and Instantaneous Water Heaters with Input Ratings above 75,000 Btu per Hour or less
ANSI Z21.11.1 Gas-Fired Room Heaters—Volume I—Vented Room Heaters
ANSI Z21.11.2 Gas-Fired Room Heaters—Volume II—Unvented Room Heaters
ANSI Z21.12 Draft Hoods
ANSI Z21.13 Gas-Fired Low-Pressure Steam and Hot Water Heating Boilers
ANSI Z21.15 Manually Operated Gas Valves
ANSI Z21.17 Domestic Gas Conversion Burners
ANSI Z21.18 Gas Appliance Pressure Regulators
ANSI Z21.20 Automatic Gas Ignition Systems and Components
ANSI Z21.21 Automatic Valves for Gas Appliances
ANSI Z21.23 Gas Appliance Thermostats
ANSI Z21.24 Metal Connectors for Gas Appliances
ANSI Z21.35 Gas Filters on Appliances
ANSI Z21.40.1 Gas-Fired Absorption Summer Air Conditioning Appliances
ANSI Z21.47 Gas-Fired Central Furnaces
ANSI Z21.48 Gas-Fired Gravity and Fan Type Floor Furnaces
ANSI Z21.49 Gas-Type Gravity and Fan Type Vented Wall Furnaces
ANSI Z21.50 Vented Decorative Gas Appliances
ANSI Z21.57 Recreational Vehicle Cooking Gas Appliances
ANSI Z21.56 Gas-Fired Pool Heaters
ANSI Z21.58 Outdoor Cooking Gas Appliances
ANSI Z21.60 Decorative Gas Appliances for Installation in Solid-Fuel Burning Fireplaces
ANSI Z21.72 Portable Camp Cook Stoves for Use With Propane Gas
ANSI Z83.4 Direct Gas-Fired Make-Up Air Heaters
ANSI Z83.6 Gas-Fired Infrared Heaters
ANSI Z83.7 Gas-Fired Construction Heater
ANSI Z83.8 Gas Unit Heaters
ANSI Z83.11 Gas Food Service Equipment—Ranges and Unit Broilers
ANSI Z83.18 Direct Gas-Fired Industrial Air Heaters
UL 1 Flexible Metal Conduit
UL 3 Flexible Nonmetallic Tubing for Electric Wiring
UL 4 Armored Cable
UL 5 Surface Metal Electrical Raceways and Fittings
UL 5A Nonmetallic Surface Raceways and Fittings
UL 6 Rigid Metal Conduit
UL 8 Foam Fire Extinguishers
UL 9 Fire Tests of Window Assemblies
UL 10B Fire Tests of Door Assemblies
UL 10C Positive Pressure Fire Tests of Door Assemblies
UL 13 Power-Limited Circuit Cables
UL 17 Vent or Chimney Connector Dampers for Oil-Fired Appliances
UL 20 General-Use Snap Switches
UL 21 P-Gas Hose
UL 22 Amusement and Gaming Machines
UL 25 Meters for Flammable and Combustible Liquids and LP Gas
UL 44 Rubber-Insulated Wires and Cables
UL 45 Portable Electric Tools
UL 48 Electric Signs
UL 50 Electrical Cabinets and Boxes
UL 62 Flexible Cord and Fixture Wire
UL 65 Electric Wired Cabinets
UL 67 Electric Panelboards
UL 69 Electric-Fence Controllers
UL 73 Electric Motor-Operated Appliances
UL 79 Power-Operated Pumps for Petroleum Product Dispensing Systems
UL 82 Electric Gardening Appliances
UL 83 Thermoplastic-Insulated Wires and Cables
UL 87 Power-Operated Dispensing Devices for Petroleum Products
UL 94 Tests for Flammability of Plastic Materials for Parts in Devices and Appliances
UL 96 Lightning Protection Components
UL 98 Enclosed and Dead-Front Switches
UL 104 Elevator Door Locking Devices and Contacts
UL 122 Photographic Equipment
UL 123 Oxy-Fuel Gas Torches
UL 130 Electric Heating Pads
UL 136 Pressure Cookers
UL 141 Garment Finishing Appliances
UL 150 Antenna Rotators
UL 153 Portable Electric Lamps
UL 154 Carbon-Dioxide Fire Extinguisher
UL 174 Household Electric Storage—Tank Water Heaters
UL 180 Liquid-Level Indicating Gauges and Tank-Filling Signals for Petroleum Products
UL 181 Factory Made Air Ducts and Connectors
UL 183 Manufactured Wiring Systems
UL 187 X-Ray Equipment
UL 197 Commercial Electric Cooking Appliances
UL 198B Class H Fuses
UL 198D High-Interrupting Capacity Class K Fuses
UL 198E Class R Fuses
UL 198F Plug Fuses
UL 198G Fuses for Supplementary Overcurrent Protection
UL 198H Class T Fuses
UL 198L DC Fuses for Industrial Uses
UL 198M Mine-Duty Fuses
UL 201 Standard for Garage Equipment
UL 207 Refrigerant Containing Components and Accessories, Nonelectrical
UL 209 Cellular Metal Floor Raceways and Fittings
UL 217 Single and Multiple Station Smoke Detectors
UL 218 Fire Pump Controllers
UL 224 Extruded insulating Tubing
UL 228 Door Closers-Holders, With or Without Integral Smoke Detectors
UL 231 Electrical Power Outlets
UL 234 Low Voltage Lighting Fixtures for Use in Recreational Vehicles
UL 244A Solid-State Controls for Appliances
UL 248–1 Low-Voltage Fuses—Part 1: General Requirements
UL 248–2 Low-Voltage Fuses—Part 2: Class C Fuses
UL 248–3 Low-Voltage Fuses—Part 3: Class CA and CB Fuses
UL 248–4 Low-Voltage Fuses—Part 4: Class CC Fuses
UL 248–5 Low-Voltage Fuses—Part 5: Class G Fuses
UL 248–6 Low-Voltage Fuses—Part 6: Class H Non-Renewable Fuses
UL 248–7 Low-Voltage Fuses—Part 7: Class H Renewable Fuses
UL 248–8 Low-Voltage Fuses—Part 8: Class J Fuses
UL 248–9 Low-Voltage Fuses—Part 9: Class K Fuses
UL 248–10 Low-Voltage Fuses—Part 10: Class L Fuses
UL 248–11 Low-Voltage Fuses—Part 11: Plug Fuses
UL 248–12 Low-Voltage Fuses—Part 12: Class R Fuses
UL 248–13 Low-Voltage Fuses—Part 13: Semiconductor Fuses
UL 248–14 Low-Voltage Fuses—Part 14: Supplemental Fuses
UL 248–15 Low-Voltage Fuses—Part 15: Class T Fuses
UL 248–16 Low-Voltage Fuses—Part 16: Test Limiters
ANSI/NEMA 250 Enclosures for Electrical Equipment
UL 250 Household Refrigerators and Freezers

UL 252A Compressed Gas Regulator Accessories
UL 291 Automated Teller Systems
UL 294 Access Control System Units
UL 296 Oil Burners
UL 296A Waste Oil-Burning Air-Heating Appliances
UL 298 Portable Electric Hand Lamps
UL 299 Dry Chemical Fire Extinguisher
UL 300 Fire Testing of Fire Extinguishing Systems for Protection of Restaurant Cooking Areas
UL 307A Liquid Fuel-Burning Heating Appliances for Manufactured Homes and Recreational Vehicles
UL 307B Gas Burning Heating Appliances for Manufactured Homes and Recreational Vehicles
UL 310 Electrical Quick-Connect Terminals
UL 325 Door, Drapery, Gate, Louver, and Window Operators and Systems
UL 330 Hose and Hose Assemblies for Dispensing Gasoline
UL 343 Pumps for Oil-Burning Appliances
UL 347 High-Voltage Industrial Control Equipment
UL 353 Limit Controls
UL 355 Cord Reels
UL 360 Liquid-Tight Flexible Steel Conduit
UL 363 Knife Switches
UL 365 Police Station Connected Burglar Alarm Units and Systems
UL 372 Primary Safety Controls for Gas- and Oil-Fired Appliances
UL 378 Draft Equipment
UL 391 Solid-Fuel and Combination-Fuel Control and Supplementary Furnaces
UL 399 Drinking-Water Coolers
UL 407 Manifolds for Compressed Gases
UL 412 Refrigeration Unit Coolers
UL 414 Meter Sockets
UL 416 Refrigerated Medical Equipment
UL 427 Refrigerating Units
UL 429 Electrically Operated Valves
UL 430 Electric Waste Disposers
UL 443 Steel Auxiliary Tanks for Oil-Burner Fuel
UL 444 Communications Cables
UL 448 Pumps for Fire-Protection Service
UL 464 Audible Signal Appliances
UL 466 Electric Scales
UL 467 Electrical Grounding and Bonding Equipment
UL 469 Musical Instruments and Accessories
UL 471 Commercial Refrigerators and Freezers
UL 474 Dehumidifiers
UL 482 Portable Sun/Heat Lamps
UL 484 Room Air Conditioners
UL 486A Wire Connectors and Soldering Lugs for Use With Copper Conductors
UL 486B Wire Connectors for Use with Aluminum and/or Copper Conductors
UL 486C Splicing Wire Connectors
UL 486E Equipment Wiring Terminals for Use with Aluminum and/or Cooper Conductors
UL 489 Molded-Case Circuit Breakers and Circuit-Breaker Enclosures
UL 493 Thermoplastic-Insulated Underground Feeder and Branch-Circuit Cables
UL 496 Edison Base Lampholders
UL 497 Protectors for Paired Conductor Communications Circuits
UL 497A Secondary Protectors for Communication Circuits
UL 497B Protectors for Data Communication and Fire Alarm Circuits
UL 498 Electrical Attachment Plugs and Receptacles
UL 499 Electric Heating Appliances
UL 506 Specialty Transformers
UL 507 Electric Fans
UL 508 Electric Industrial Control Equipment
UL 508C Power Conversion Equipment
UL 510 Insulating Tape
UL 512 Fuseholders
UL 514A Metallic Outlet Boxes, Electrical
UL 514B Fittings for Conduit and Outlet Boxes
UL 514C Nonmetallic Outlet Boxes, Flush-Device Boxes and Covers
UL 525 Flame Arresters for Use on Vents of Storage Tanks for Petroleum Oil and Gasoline
UL 541 Refrigerated Vending Machines
UL 542 Lampholders, Starters, and Starter Holders for Fluorescent Lamps
UL 544 Electric Medical and Dental Equipment
UL 551 Transformer-Type Arc-Welding Machines
UL 558 Industrial Trucks, Internal Combustion Engineer-Powered
UL 561 Floor-Finishing Machines
UL 563 Ice Makers
UL 567 Pipe Connectors for Flammable and Combustible Liquids and LP Gas
UL 574 Electric Oil Heaters
UL 583 Electric-Battery-Powered Industrial Trucks
UL 588 Christmas-Tree and Decorative-Lighting Outfits
UL 603 Power Supplies for Use with Burglar-Alarm Systems
UL 606 Linings and Screens for Use with Burglar-Alarm Systems
UL 609 Local Burglar-Alarm Units and Systems
UL 621 Ice Cream Makers
UL 626 2½ Gallon Stored-Pressure, Water-Type Fire Extinguisher
UL 632 Electrically Actuated Transmitters
UL 634 Connectors and Switches for Use with Burglar-Alarm Systems
UL 635 Insulating Bushings
UL 639 Intrusion-Detection Units
UL 641 Low-Temperature Venting Systems, Type L
UL 644 Container Assemblies for LP-Gas
UL 651 Schedule 40 and 80 PVC Conduit
UL 651A Type EB and A Rigid PVC Conduit and HDPE Conduit
UL 664 Commercial Dry-Cleaning Machines (Type IV)
UL 668 Hose Valves For Fire Protection Service
UL 674** Electric Motors and Generators for Use in Hazardous Locations, Class I, Groups C and D, Class II, Groups E, F, and G
UL 676 Underwater Lighting Fixtures
UL 696 Electric Toys
UL 697 Toy Transformers
UL 698** Industrial Control Equipment for Use in Hazardous (Classified) Locations
UL 705 Power Ventilators
UL 710 Grease Extractors for Exhaust Ducts
UL 711 Rating and Fire Testing of Fire Extinguishers
UL 719 Nonmetallic Sheathes Cables
UL 726 Oil-Fired Boiler Assemblies
UL 727 Oil-Fired Central Furnaces
UL 729 Oil-Fired Floor Furnaces
UL 730 Oil-Fired Wall Furnaces
UL 731 Oil-Fired Unit Heaters
UL 732 Oil-Fired Water Heaters
UL 733 Oil-Fired Air Heaters and Direct-Fired Heaters
UL 745–1 Portable Electric Tools
UL 745–2–1 Particular Requirements of Drills
UL 745–2–2 Particular Requirements for Screwdrivers and Impact Wrenches
UL 745–2–3 Particular Requirements for Grinders, Polishers, and Disk-Type Sanders
UL 745–2–4 Particular Requirements for Sanders
UL 745–2–5 Particular Requirements for Circular Saws and Circular Knives
UL 745–2–6 Particular Requirements for Hammers
UL 745–2–8 Particular Requirements for Shears and Nibblers
UL 745–2–9 Particular Requirements for Tappers
UL 745–2–11 Particular Requirements for Reciprocating Saws

UL 745–2–12 Particular Requirements for Concrete Vibrators
UL 745–2–14 Particular Requirements for Planers
UL 745–2–17 Particular Requirements for Routers and Trimmers
UL 745–2–30 Particular Requirements for Staplers
UL 745–2–31 Particular Requirements for Diamond Core Drills
UL 745–2–32 Particular Requirements for Magnetic Drill Presses
UL 745–2–33 Particular Requirements for Portable Bandsaws
UL 745–2–34 Particular Requirements for Strapping Tools
UL 745–2–35 Particular Requirements for Drain Cleaners
UL 745–2–36 Particular Requirements for Hand Motor Tools
UL 745–2–37 Particular Requirements for Plate Jointers
UL 746C Polymeric Materials—Use in Electrical Equipment Evaluations
UL 749 Household Electric Dishwashers
UL 751 Vending Machines
UL 756 Coin and Currency Changers and Actuators
UL 763 Motor-Operated Commercial Food Preparing Machines
UL 773 Plug-In, Locking Type Photocontrols for Use with Area Lighting
UL 773A Nonindustrial Photoelectric Switches for Lighting Control
UL 775 Graphic Arts Equipment
UL 778 Motor-Operated Water Pumps
UL 781** Portable Electric Lighting Units for Use in Hazardous (Classified) Locations
UL 783** Electric Flashlights and Lanterns for Use in Hazardous (Classified) Locations1
UL 791 Residential Incinerators
UL 795 Commercial-Industrial Gas-Heating Equipment
UL 796 Electrical Printed-Wiring Boards
UL 797 Electrical Metallic Tubing
UL 810 Capacitors
UL 813 Commercial Audio Equipment
UL 814 Gas-Tube-Sign and Ignition Cable
UL 817 Cord Sets and Power-Supply Cords
UL 823** Electric Heaters for Use in Hazardous (Classified) Locations
UL 826 Household Electric Clocks
UL 827 Central-Stations for Watchman, Fire-Alarm, and Supervisory Services
UL 834 Heating, Water Supply, and Power Boilers—Electric
UL 842 Valves for Flammable Liquids
UL 844** Electric Lighting Fixtures for Use in Hazardous (Classified) Locations
UL 845 Motor Control Centers
UL 854 Service-Entrance Cables
UL 857 Electric Busways and Associated Fittings
UL 858 Household Electric Ranges
UL 858A Safety-Related Solid-State Controls for Household Electric Ranges
UL 859 Personal Grooming Appliances
UL 863 Time-Indicating and—Recording Appliances
UL 864 Control Units for Fire-Protective Signaling Systems
UL 867 Electrostatic Air Cleaners
UL 870 Wireways, Auxiliary Gutters, and Associated Fittings
UL 873 Electrical Temperature-Indicating and Regulating Equipment
UL 875 Electric Dry Bath Heaters
UL 877** Circuit Breakers and Circuit-Breaker Enclosures for Use in Hazardous (Classified) Locations
UL 879 Electrode Receptacles for Gas-Tube Signs
UL 884 Underfloor Raceways and Fittings
UL 886** Electrical Outlet Boxes and Fittings for Use in Hazardous (Classified) Locations
UL 891 Dead-Front Electrical Switchboards
UL 894** Switches for Use in Hazardous (Classified) Locations
UL 900 Test Performance of Air-Filter Units
UL 910 Test Method for Fire and Smoke Characteristics of Electrical and Optical-Fiber Cables Used in Air Handling Spaces
UL 913 Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division 1, Hazardous Locations
UL 916 Energy Management Equipment
UL 917 Clock-Operated Switches
UL 921 Commercial Electric Dishwashers
UL 923 Microwave Cooking Appliances
UL 924 Emergency Lighting and Power Equipment
UL 935 Fluorescent-Lamp Ballasts
UL 943 Ground-Fault Circuit Interrupters
UL 961 Hobby and Sports Equipment
UL 964 Electrically Heated Bedding
UL 969 Marking and Labeling Systems
UL 977 Fuse Power-Circuit Devices
UL 982 Motor-Operated Household Food Preparing Machines
UL 983 Surveillance Camera Units
UL 984 Hermetic Refrigerant Motor-Compressors
UL 987 Stationary and Fixed Electric Tools
UL 991 Safety-Related Controls Employing Solid-State Devices
UL 998 Humidifiers
UL 1002** Electrically Operated Valves for Use in Hazardous Locations, Class I, Groups A, B, C, and D, and Class II, Groups E, F, and G
UL 1004 Electric Motors
UL 1005 Electric Flatirons
UL 1008 Automatic Transfer Switches
UL 1012 Power Supplies
UL 1017 Electric Vacuum Cleaner Machines and Blower Cleaners
UL 1018 Electric Aquarium Equipment
UL 1020 Thermal Cutoffs for Use in Electrical Appliances and Components
UL 1022 Line Isolated Monitors
UL 1023 Household Burglar-Alarm System Units
UL 1026 Household Electric Cooking and Food-Serving Appliances
UL 1028 Electric Hair-Clipping and -Shaving Appliances
UL 1029 High-Intensity Discharge Lamp Ballasts
UL 1030 Sheathed Heating Elements
UL 1037 Antitheft Alarms and Devices
UL 1042 Electric Baseboard Heating Equipment
UL 1047 Isolated Power Systems Equipment
UL 1054 Special-Use Switches
UL 1059 Electrical Terminal Blocks
UL 1063 Machine-Tool Wires and Cables
UL 1066 Low-Voltage AC and DC Power Circuit Breakers Used in Enclosures
UL 1069 Hospital Signaling and Nurse-Call System
UL 1072 Medium Voltage Cables
UL 1075 Gas Fired Cooling Appliances for Recreational Vehicles
UL 1076 Proprietary Burglar Alarm Units and Systems
UL 1077 Supplementary Protectors for Use in Electrical Equipment
UL 1081 Electric Swimming Pool Pumps, Filters, and Chlorinators
UL 1082 Household Electric Coffee Makers and Brewing-Type Appliances
UL 1083 Household Electric Skillets and Frying-Type Appliances
UL 1086 Household Trash Compactors
UL 1090 Electric Snow Movers
UL 1097 Double Insulation Systems for Use in Electrical Equipment
UL 1203** Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations
UL 1206 Electrical Commercial Clothes-Washing Equipment
UL 1207** Sewage Pumps for Use in Hazardous (Classified) Locations
UL 1230 Amateur Movie Lights
UL 1236 Electric Battery Chargers
UL 1238 Control Equipment for Use with Flammable Liquid Dispensing Devices

UL 1240 Electric Commercial Clothes-Drying Equipment
UL 1244 Electrical and Electronic Measuring and Testing Equipment
UL 1247 Diesel Engines for Driving Centrifugal Fire Pumps
UL 1248 Engine-Generator Assemblies for Use in Recreational Vehicles
UL 1261 Electric Water Heaters for Pools and Tubs
UL 1262 Laboratory Equipment
UL 1270 Radio Receivers, Audio Systems, and Accessories
UL 1277 Electrical Power and Control Tray Cables with Optional Optical-Fiber Members
UL 1278 Movable and Wall- or Ceiling-Hung Electric Room Heaters
UL 1283 Electromagnetic-Interference Filter
UL 1286 Office furnishings
UL 1310 Direct Plug-In Transformer Units
UL 1313 Nonmetallic Safety Cans for Petroleum Products
UL 1316 Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products
UL 1323 Scaffold Hoists
UL 1363 Relocatable Power Taps
UL 1409 Low-Voltage Video Products Without Cathode-Ray-Tube Displays
UL 1410 Television Receivers and High-Voltage Video Products
UL 1411 Transformers and Motor Transformers for Use in Audio-, Radio-, and Television-Type Appliances
UL 1413 High-Voltage Components for Television-Type Appliances
UL 1414 Across-the-Line, Antenna-Coupling, and Line-By-Pass Capacitors for Radio- and Television-Type Appliances
UL 1416 Overcurrent and Overtemperature Protectors for Radio- and Television-Type Appliances
UL 1417 Special Fuses for Radio- and Television-Type Appliances
UL 1418 Implosion-Protected Cathode-Ray Tubes for Television-Type Appliances
UL 1419 Professional Video and Audio Equipment
UL 1424 Cables for Power-Limited Fire-Protective-Signaling Circuits
UL 1431 Personal Hygiene and Health Care Appliances
UL 1433 Control Centers for Changing Message Type Electric Signs
UL 1436 Outlet Circuit Testers and Similar Indicating Devices
UL 1437 Electrical Analog Instruments—Panel Board Types
UL 1445 Electric Water Bed Heaters
UL 1446 Systems of Insulating Materials—General
UL 1447 Electric Lawn Mowers
UL 1448 Electric Hedge Trimmers
UL 1449 Transient Voltage Surge Suppressors
UL 1450 Motor-Operated Air Compressors, Vacuum Pumps and Painting Equipment
UL 1453 Electric Booster and Commercial Storage Tank Water Heaters
UL 1459 Telephone Equipment
UL 1472 Solid-State Dimming Controls
UL 1480 Speakers for Fire Protective Signaling Systems
UL 1481 Power Supplies for Fire Protective Signaling Systems
UL 1482 Solid Fuel Room Type Heaters
UL 1484 Residential Gas Detectors
UL 1492 Audio-Video Products and Accessories
UL 1557 Electrically Isolated Semiconductor Devices
UL 1558 Metal-Enclosed Low-Voltage Power Circuit Breaker Switchgear
UL 1559 Insect-Control Equipment, Electrocution Type
UL 1561 Large General Purpose Transformers
UL 1562 Transformers, Distribution, Dry-Type—Over 600 Volts
UL 1563 Electric Hot Tubs, Spas, and Associated Equipment
UL 1564 Industrial Battery Chargers
UL 1565 Wire Positioning Devices
UL 1567 Receptacles and Switches for Use With Aluminum Wire
UL 1569 Metal-Clad Cables
UL 1570 Fluorescent Lighting Fixtures
UL 1571 Incandescent Lighting Fixtures
UL 1572 High Intensity Discharge Lighting Fixtures
UL 1573 Stage and Studio Lighting Units
UL 1574 Track Lighting Systems
UL 1577 Optical Isolaters
UL 1581 Reference Standard for Electrical Wires, Cables, and Flexible Cords
UL 1585 Class 2 and Class 3 Transformers
UL 1594 Sewing and Cutting Machines
UL 1604** Electrical Equipment for Use in Class I and II, Division 2, and Class III Hazardous (Classified) Locations
UL 1610 Central-Station Burglar-Alarm Units
UL 1635 Digital Alarm Communicator System Units
UL 1638 Visual Signaling Appliances
UL 1640 Portable Power Distribution Units
UL 1647 Motor-Operated Massage and Exercise Machines
UL 1651 Optical Fiber Cable
UL 1660 Liquid-Tight Flexible Nonmetallic Conduit
UL 1662 Electric Chain Saws
UL 1664 Immersion-Detection Circuit-Interrupters
UL 1666 Standard Test for Flame Propagation Height of Electrical and Optical Fiber Cables Installed Vertically in Shafts
UL 1673 Electric Space Heating Cables
UL 1676 Discharge Path Resistors
UL 1690 Data-Processing Cables
UL 1693 Electric Radiant Heating Panels and Heating Panel Sets
UL 1694 Tests for Flammability of Small Polymeric Component Materials
UL 1703 Flat Plate Photovoltaic Modules and Panels
UL 1711 Amplifiers for Fire Protective Signaling Systems
UL 1727 Commercial Electric Personal Grooming Appliances
UL 1738 Venting Systems for Gas-Burning Appliances, Categories II, III, and IV
UL 1740 Industrial Robots and Robotic Equipment
UL 1773 Termination Boxes
UL 1776 High-Pressure Cleaning Machines
UL 1778 Uninterruptible Power Supply Equipment
UL 1786 Nightlights
UL 1795 Hydromassage Bathtubs
UL 1812 Ducted Heat Recovery Ventilators
UL 1815 Nonducted Heat Recovery Ventilators
UL 1821 Thermoplastic Sprinkler Pipe and Fittings for Fire Protection Service
UL 1838 Low Voltage Landscape Lighting Systems
UL 1863 Communication Circuit Accessories
UL 1876 Isolating Signal and Feedback Transformers for Use in Electronic Equipment
UL 1889 Commercial Filters for Cooking Oil
UL 1917 Solid-State Fan Speed Controls
UL 1950 Information Technology Equipment Including Electrical Business Equipment
UL 1951 Electric Plumbing Accessories
UL 1963 Refrigerant Recovery/Recycling Equipment
UL 1971 Signaling Devices for the Hearing Impaired
UL 1977 Component Connectors for Use in Data, Signal, Control and Power Applications
UL 1981 Central Station Automation Systems
UL 1993 Self-Ballasted Lamps and Lamp Adapters
UL 1994 Low-Level Path Marking and Lighting Systems

UL 1995 Heating and Cooling Equipment
UL 1996 Duct Heaters
UL 2021 Fixed and Location-Dedicated Electric Room Heaters
UL 2024 Optical Fiber Cable Raceway
UL 2034 Single and Multiple Station Carbon Monoxide Detectors
UL 2044 Commercial Closed Circuit Television Equipment
UL 2083 Halon 1301 Recovery/Recycling Equipment
UL 2096 Commercial/Industrial Gas and/or Gas Fired Heating Assemblies with Emission Reduction Equipment
UL 2097 Double Insulation Systems for Use in Electronic Equipment
UL 2106 Field Erected Boiler Assemblies
UL 2157 Electric Clothes Washing Machines and Extractors
UL 2158 Electric Clothes Dryers
UL 2161 Neon Transformers and Power Supplies
UL 2250 Instrumentation Tray Cable
UL 2601–1 Medical Electrical Equipment, Part 1: General Requirements for Safety
UL 3044 Surveillance Closed Circuit Television Equipment
UL 3101–1 Electrical Equipment for Laboratory Use; Part 1: General
UL 3111–1 Electrical Measuring and Test Equipment, Part 1: General
FMRC 3600** Electrical Equipment for Use in Hazardous (Classified) Locations, General Requirements
FMRC 3610** Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II and III, Division 1 Hazardous (Classified) Locations
FMRC 3611** Electrical Equipment for Use in Class I, Division 2; Class II, Division 2; and Class III, Division 1 and 2 Hazardous Locations
FMRC 3615 Explosionproof Electrical Equipment, General Requirements
UL 6500 Audio/Visual and Musical Instrument Apparatus for Household, Commercial, and Similar General Use
UL 8730–1 Electrical Controls for Household and Similar Use; Part 1: General
UL 8730–2–3 Automatic Electrical Controls for Household and Similar Use; Part 2: Particular Requirements for Thermal Motor Protectors for Ballasts for Tubular Fluorescent Lamps
UL 8730–2–4 Automatic Electrical Controls for Household and Similar Use; Part 2: Particular Requirements for Thermal Motor Protectors for Motor Compressors or Hermetic and Semi-Hermetic Type
UL 8730–2–7 Automatic Electrical Controls for Household and Similar Use; Part 2: Particular Requirements for Timers and Time Switches
UL 8730–2–8 Automatic Electrical Controls for Household and Similar Use; Part 2: Particular Requirements for Electrically Operated Water Valves

*These standards are approved for equipment or materials intended for use in commercial and industrial power system applications. These standards are not approved for equipment or materials intended for use in installations that are excluded from the provisions of Subpart S in 29 CFR 1910, in particular Section 1910.302(b)(2).

**Testing and certification of products under this test standard is limited to the use of these products in Class I locations. See also "Other limitations" below.

Note: Testing and certification of gas operated equipment is limited to equipment for use with "liquefied petroleum gas" ("LPG" or "LP-Gas").

The designations and titles of the above test standards were current at the time of the preparation of the notice of the preliminary finding.

Many of the test standards listed above are approved as American National Standards by the American National Standards Institute (ANSI). However, for convenience in compiling the list, we show the designation of the standards developing organization (e.g., UL 1950) for the standard, as opposed to the ANSI designation (e.g., ANSI/UL 1950). Under our procedures, an NRTL recognized for an ANSI-approved test standard may use either the latest proprietary version of the test standard or the latest ANSI version of that standard, regardless of whether it is currently recognized for the proprietary or ANSI version. Contact ANSI or the ANSI web site to find out whether or not a standard is currently ANSI-approved.

Other Limitations

ITSNA may perform safety testing for hazardous location products only at the specific ITSNA sites that OSHA has recognized and that have been pre-qualified by the ITSNA Chief Engineer. In addition, all safety test reports for hazardous location products must undergo a documented review and approval at the Cortland testing facility by a test engineer qualified in hazardous location safety testing prior to ITSNA's initial or continued authorization of the certifications covered by these reports. The above limitations apply solely to ITSNA's operations as an NRTL.

Conditions

ITSNA must also abide by the following conditions of the recognition, in addition to those already required by 29 CFR 1910.7:

ITSNA may not test and certify any products for a manufacturer or vendor that is either owned in excess of 2% by ITSLtd, or affiliated organizationally with ITSNA, including Compliance Design;

OSHA must be allowed access to ITSNA's facility and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If ITSNA has reason to doubt the efficacy of any test standard it is using under this program, it must promptly inform the test standard developing organization of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

ITSNA must not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, ITSNA agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL) without clearly indicating the specific equipment or material to which this recognition is tied, or that its recognition is limited to certain products;

ITSNA must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major changes in its operations as an NRTL, including details;

ITSNA will meet all the terms of its recognition and will always comply with all OSHA policies pertaining to this recognition; and

ITSNA will continue to meet the requirements for recognition in all areas where it has been recognized.

Signed at Washington, DC this 22nd day of May, 2001.

R. Davis Layne,

Acting Assistant Secretary.

[FR Doc. 01–13427 Filed 5–25–01; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice (01–062)

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Phoenix Systems International, Inc., of Ashtabula, OH, has applied for an exclusive patent license to practice the invention described in NASA Case No. KSC–12235–1, entitled High Temperature Decomposition of Hydrogen Peroxide," which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Randy Heald, Patent Counsel, John F. Kennedy Space Center, Kennedy Space Center, FL 32899.

DATE(S): Responses to this notice must be received by July 30, 2001.

FOR FURTHER INFORMATION CONTACT: Melanie Chan, Licensing Commercialization Manager, John F. Kennedy Space Center, Mail Code YA–C1, Kennedy Space Center, FL 32899, *melanie.chan-1@ksc.nasa.gov*, telephone (321) 867–6367.

Dated: May 22, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–13396 Filed 5–25–01; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–445 and 50–446]

TXU Electric; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–87 and NPF–89, issued to TXU Electric (TXU or the licensee), for operation of the Comanche Peak Steam Electric Station (CPSES), Units 1 and 2, respectively. The facilities are located in Somervell and Hood Counties, Texas.

The proposed amendment would incorporate changes into the CPSES, Units 1 and 2, Operating Licenses and Technical Specifications. These changes, which would reflect a proposed increase in the licensed power for operation of both CPSES, Units 1 and 2, to 3458 MWt, represent an increase of approximately 1.4 percent of the currently licensed power level for CPSES, Unit 1, and an increase of approximately 0.4 percent for CPSES, Unit 2. In addition, the licensee requests that Texas Municipal Power Agency (TMPA) be removed from both CPSES, Units 1 and 2, licenses since transfer of ownership from TMPA to TXU was completed.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By June 28, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating licenses, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and is accessible electronically through the NRC Web site (http://www.nrc.gov/NRC/CFR/index.html). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board (Board), designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition; and the Secretary or the designated Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition must specifically explain the reasons why intervention should be permitted, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition must also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene that must include a list of the contentions that the petitioner seeks to have litigated in the hearing. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement that satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Requests for a hearing and petitions for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the request for a hearing and the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions, and/or requests

for a hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 10 CFR 50.92.

For further details with respect to this action, see the application for amendment dated April 5, 2001, which is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If there are problems accessing the document located in ADAMS, contact the PDR Reference staff at 1–800–397–4209, 301–415–4737, or send an email to pdr@nrc.gov.

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

For the Nuclear Regulatory Commission.

David H. Jaffe,

Senior Project Manager, Section 1, Project Directorate IV & Decommissioning Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–13398 Filed 5–25–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 30–595]

South Carolina Electric & Gas; V.C. Summer Nuclear Station, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from 10 CFR 55.59 for Facility Operating License No. NPF–12, issued to South Carolina Electric & Gas Company (SCE&G, the licensee), for operation of the V.C. Summer Nuclear Station, located in Jenkinsville, South Carolina.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow the licensed operator requalification examinations for the V.C. Summer Nuclear Station to be rescheduled. The requested exemption would extend the completion date for the examinations from May 31, 2001, to August 31, 2001.

The proposed action is in accordance with the licensee's application for exemption dated January 12, 2001.

The Need for the Proposed Action

The proposed action would extend the current V.C. Summer Nuclear Station requalification program from May 31, 2001, to August 31, 2001. On October 13, 2000, during routine shutdown inspections, SCE&G discovered a leak in a weld in the reactor coolant system. Activities to determine the root cause and extent of condition and to repair the leak extended through the end of February 2001, months beyond the original scheduled plant restart. To provide the necessary level of licensed operator support to ensure safety throughout the extended plant outage, SCE&G postponed the training and other requalification program activities originally planned during that time.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes, as set forth below, that there are no environmental impacts associated with the extension of the operator requalification examinations from May 31, 2001, to August 31, 2001. The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types or amounts of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the V.C. Summer Nuclear Station.

Agencies and Persons Consulted

In accordance with its stated policy, on May 18, 2001, the staff consulted with the South Carolina State official, Henry Porter of the Division of Waste Management, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 12, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http:www.nrc.gov* (the Public Electronic Reading Room).

Dated at Rockville, Maryland, this 22nd day of May 2001.

For the Nuclear Regulatory Commission.

Karen R. Cotton,

Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–13399 Filed 5–25–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and

Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 15a–4; SEC File No. 270–7; OMB Control No. 3235–0010.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 15a–4 under the Securities Exchange Act of 1934 (the "Exchange Act") permits a natural person member of a securities exchange who terminates his or her association with a registered broker-dealer to continue to transact business on the exchange while the Commission reviews his or her application for registration as a broker-dealer if the exchange files a statement indicating that there does not appear to be any ground for disapproving the application. The total annual burden imposed by Rule 15a–4 is approximately 106 hours, based on approximately 25 responses (25 Respondents × 1 Response/Respondent), each requiring approximately 4.23 hours to complete. The total annual cost burden is $5,875, based on approximately 25 responses, each costing approximately $235 to complete.

The Commission uses the information disclosed by applicants in Form BD: (1) to determine whether the applicant meets the standards for registration set forth in the provisions of the Exchange Act; (2) to develop a central information resource where members of the public may obtain relevant, up-to-date information about broker-dealers, municipal securities dealers and government securities broker-dealers, and where the Commission, other regulators and SROs may obtain information for investigatory purposes in connection with securities litigation; and (3) to develop statistical information about broker-dealers, municipal securities dealers and government securities broker-dealers. Without the information disclosed in Form BD, the Commission could not effectively implement policy objectives of the Exchange Act with respect to its investor protection function.

The statement submitted by the exchange assures the Commission that the applicant, in the opinion of the exchange, is qualified to transact business on the exchange during the time that the applications are reviewed.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W. Washington, DC 20549.

Dated: May 18, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–13385 Filed 5–25–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44327; File No. SR–ISE–2001–04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the International Securities Exchange LLC Relating to Its Disciplinary Procedures

May 18, 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 6, 2001, the International Securities Exchange LLC (the "Exchange" or the "ISE") 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 ISE. 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 is proposing various changes to its disciplinary rules and procedures. A complete copy of the text of the proposed rule change is available at the Office of the Secretary, the ISE and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE 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

The Exchange has entered into a regulatory services agreement with NASD Regulation ("NASDR") pursuant to which, among other things, NASDR provides services related to conducting regulatory investigations and disciplinary actions. The ISE is proposing to make changes to its disciplinary rules and procedures to reflect and facilitate this "hybrid" regulatory system. In particular, the Exchange seeks to conform its disciplinary rules and procedures to those of NASDR where appropriate. In addition, the Exchange has carefully reviewed the disciplinary rules currently in place at the other self-regulatory organizations ("SROs") and seeks to incorporate rules and standards found in the rule of the other SROs in a manner tailored to fit the needs of the Exchange, while assuring a disciplinary process that is fair to the Exchange's members as required by the Securities Exchange Act of 1934, as amended ("Exchange Act"). The specific changes are discussed below.

The Exchange proposes to include in separate Rules the provisions currently contained in Rule 1601 that (1) require members and persons associated with Members to provide information upon the request of the Exchange, and (2) specify the Exchange's authority and obligation to investigate possible violations within the disciplinary jurisdiction of the Exchange. These provisions will be contained in Rules 1601 and 1602, respectively. While Rule 1615 already provides the Exchange authority to contract with another SRO to perform some or all of the Exchange's

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

disciplinary functions, a parenthetical has been added in both Rules to specify that another SRO acting on behalf of the ISE can require members to provide information and conduct investigations. No substantive changes have been made to these rules, although the language specifying the Exchange regulatory staff's authority and obligation to investigate possible violations has been amended to reflect language more recently approved by the Commission for the Pacific Exchange ("PCX").[3]

Rule 1602 is re-numbered to Rule 1603 and re-titled "Letters of Consent." This rule currently permits a disciplinary matter to be concluded through a letter of consent prior to the initiation of formal disciplinary proceedings upon approval of the letter of consent by the Business Conduct Committee ("BCC"). The Exchange proposes to change the existing procedures to require that the Chief Regulatory Officer accept a letter of consent before it may be presented to the BCC for consideration. The rule specifies that if agreement on the terms of a letter of consent cannot be reached between a member or associated person and regulatory staff, or if a letter of consent is rejected by the Chief Regulatory Officer, the Exchange may then institute a formal disciplinary action. The rule continues to require that the BCC approve all letters of consent before they may become final.

Rule 1603 (Charges) is re-numbered to Rule 1604. This rule currently provides that the Exchange will prepare a statement of charges whenever it appears that there is probable cause for finding a violation within the disciplinary jurisdiction of the Exchange. The current language also provides that the statement of charges will be served upon the member or person being charged (the "Respondent"), and that the Respondent will be given access to documents related to the case. The proposed rule change specifies that a statement of charges will be prepared by regulatory staff and must be approved by the Chief Regulatory Officer.

Rule 1604 (Answer) is re-numbered to Rule 1605. This rule currently provides a Respondent with 15 days after service of the charges to file a written answer. The Exchange proposes to extend this answer period to 25 calendar days to conform with the period allowed under NASDR procedures.[4] In addition, the Exchange proposes to add a provision specifying that, upon review of a Respondent's answer, the Chief Regulatory Officer may modify the statement of charges and re-serve them on the Respondent. The Respondent will then be given additional time to answer the amended charges.

Rule 1605 (Hearing) is re-numbered to Rule 1606. This rule specifies the procedure for conducting disciplinary hearings. Currently, the rule specifies that hearings will be held before "one or more" members of the BCC. The Exchange proposes to amend the rule to specify that disciplinary hearings will be held before a panel comprised of a professional hearing officer and two members of the BCC. The professional hearing officer will be provided by NASDR under our regulatory services agreement, and under the proposal, this person will be the Panel Chairman that handles all procedural matters. The two ISE member representatives on a panel will be appointed by the Chairman of the BCC from among the members of the BCC. We propose to adopt guidelines governing this appointment, as well as a provision specifying that a panel member must withdraw from a panel if at any time he or she has a conflict of interest or bias or circumstances otherwise exist where his or her fairness might reasonably be questioned.[5]

The Exchange proposes to extend from 15 days to 28 calendar days the notice period provided parties regarding the time and place of the hearing. The Exchange also proposes to change the time in advance of a scheduled hearing by which each party is required to furnish the panel and the opposing party copies of all documentary evidence to be presented at the hearing from five days to 10 calendar days. These changes are made to conform with NASDR procedures.[6]

The Exchange further proposes to specify in Rule 1606 that interlocutory Board review of decisions made by a panel during a hearing will generally be prohibited. The proposed provision states that interlocutory review will be permitted only if the panel agrees to such review after determining that the issue is a controlling issue of rule or policy and that immediate Board review would materially advance the ultimate resolution of the case. Currently, there is nothing in the Exchange rules with respect to interlocutory review, and the proposal is consistent with NASDR procedures.[7]

Finally, the Exchange proposes to amend Rule 1606 regarding ex parte communications to specify that the prohibition on ex parte communications extends to members of a hearing panel and to board members, in addition to BCC members. It would be inappropriate for a member or an associated person to discuss a pending disciplinary matter with any party that may be called upon to render a decision in the matter. In light of the proposed changes discussed above that specifies that a hearing panel will make disciplinary determinations, and the right for review of a panel decision by the Board discussed below, the prohibition should be extended to members of panels and the Board.

Rule 1608 (Decision) is renumbered to Rule 1607. The Exchange proposes to delete paragraph (b) from the rule. This provision specifies that if a hearing panel is comprised of less than half of the members of the BCC, there would be an automatic review by a majority of the BCC. As discussed above, the Exchange is proposing that hearings be conducted by a hearing panel instead of the BCC. Therefore, paragraph (b) is not applicable under the proposed change to Rule 1607 (Hearings).

Rule 1606 (Summary Proceedings) is re-numbered Rule 1608. This rule currently specifies that a panel may make a determination without a hearing and may impose a penalty as to violations that a Respondent has admitted or has failed to answer on that otherwise do not appear in dispute. The Exchange proposed to specify that the ten-day notice currently required under the rule is "calendar" days and that it be given to the panel chairman, but proposes no substantive changes to this rule.

Rule 1607 (Offers of Settlement) is re-numbered Rule 1609. This rule provides that a Respondent may submit a written offer of settlement following service of a statement of charges. The Exchange proposes to re-organize this rule, as well as specify that an offer of settlement may be submitted to the Chief Regulatory Officer if a panel has not yet been formed. The Respondent may submit a written statement in support of the offer, but the Exchange proposes to eliminate the right to request an oral argument in support of the offer. The proposal also specifies that where a

[3] *See* PCX Rule 10.2; Securities Exchange Act Release No. 42756 (May 11, 2000).

[4] *See* NASD Code of Procedure, Rules 9138(a) and 9215(a).

[5] These provisions are similar to the recusal guidelines provided for in the NASD and AMEX rules. *See* NASD Code of Procedures, Rules 9233(a) (specifying that the term "days" in the disciplinary rules is "calendar" days) and 9234(a); AMEX Rules, Exchange Disciplinary Proceedings, Rules 1 and 2(b).

[6] NASD Code of Procedure, Rules 9221(d) (25 days notice of hearing) and 9261(a) (requiring submission of documentary evidence at least 10 days prior to hearing date).

[7] *See* NASDR Code of Procedure, Rule 9148; *see also* Chicago Board Options Exchange ("CBOE") Rule 17.6(b).

panel or Chief Regulatory Officer accepts an offer of settlement, it or he will issue a decision, including findings and conclusions and imposing a sanction, consistent with the terms of the offer. Where a panel or Chief Regulatory Officer rejects an offer of settlement, it or he will notify the Respondent and the matter will proceed as if such offer had not been made. A decision to accept or reject an offer of settlement is final, and the Respondent may not seek review thereof.

Rule 1609 (Review) is re-numbered to Rule 1610. This rules provides that the Respondent has 15 days following a decision to submit a petition for review of a disciplinary decision. The Exchange proposes to extend this period to 25 "calendar" days and specify that the review is conducted by the Board to be consistent with the time allowed under NASD rules.[8] The Exchange does not propose any other substantive changes to this rule.

Rule 1610 (Judgment and Sanction) is re-numbered to Rule 1611. This rule provides generally that members and associated persons may be disciplined by, among other things, fine, censure, expulsion, suspension, and limitation of activities, functions and operations. The Exchange proposes to adopt a provision under this rule specifying that all fines and other monetary sanctions be paid to the Chief Financial Offer of the Exchange. The proposal would permit the Exchange to summarily suspend a Member that fails to promptly pay a fine, or terminate the association of a person who fails to promptly pay a fine, when such fine becomes finally due and payable.[9] In addition, the Exchange proposes to require that a member or associated person bear such costs of the proceeding as the adjudicator deems fair and appropriate under the circumstances.[10]

Rule 1611 (Service of Notice) and 1612 (Extension of Time Limits) have been combined in Rule 1612 (Procedural Matters). The Exchange does not propose any substantive changes to these rules.

The Exchange also proposes several changes to the minor rule violation plan contained in Rule 1614.[11] Under this rule, the Exchange staff has the authority to issue "traffic tickets" for violations that are minor in nature. While violations are generally black and white, recipients of penalties under the minor rule violation plan have a right to appeal the imposition of a fine to the BCC and ultimately to the Board. The Exchange proposes to specify that the formal rules of evidence do not apply to review hearings conducted by the BCC under Rule 1614. The BCC will determine the time and place of the hearing and make all determinations with regard to procedural or evidentiary matters, as well as prescribe the time within which all documents or written materials must be submitted. Evidence may be presented and witnesses may testify and be subject to questioning by the BCC and the opposing party. A person fined under Rule 1614 is entitled to be presented by counsel who may participate fully in the hearing.[12]

The Exchange also proposes to clarify the application of the Rule to particular violations. Paragraph (d) of the rule currently specifies sanctions for violations of Rule 412 (Position Limits), Rule 1403 (Focus Reports), Rule 1404 (Requests for Data), Rule 717 (Order Entry), Rule 803 (Quotation Parameters) and Rule 805 (Execution of Orders in Appointed Options). The Exchange is not proposing to include any additional rules or to change any of the sanctions with the exception of a time parameter associated with Rule 803 and the sanctions related to violations of Rule 805, both of which are discussed below.

Many of the sanction schedules for violations of the Rules listed above currently contain an indication that upon a certain number of violations, a referral will be made to the BCC. This reference to the BCC is made because the rules currently provide for the BCC to issue formal charges that initiate formal disciplinary actions. In light of the proposed changes discussed above that provide for the issuance of charges by the Chief Regulatory Officer, the Exchange proposes to remove the reference to the BCC in the minor rule schedules and instead indicate that the level of violation subjects the member to "Formal Disciplinary Action," which is outside of the scope of Rule 1614. This has the same effect as the prior reference to the BCC and does not substantively change the sanction schedules.

Rule 803 contains maximum quotation spread parameters that currently are uniform across the five options exchanges. Unlike other options exchanges, market makers on the ISE quote independently from remote locations, and each quote entered by a market maker must have a size associated with the price. Once the size associated with a price is exhausted, the price is automatically moved down for a bid and up for an offer by the Exchange according to parameters pre-set by the market maker. As a result, a market maker might enter a quote with an allowable bid-ask spread, but have its bid and/or offer automatically moved by the Exchange so that the spread becomes too wide. Accordingly, market makers must be given some amount of time to update a quote to bring the spread within the allowable parameters. Currently, Rule 1614(d)(6) specifies that a market maker must take immediate action to adjust its quote to comply with the maximum allowable spread, and that except in unusual market conditions, immediate means within five seconds. This five second guideline was adopted before the Exchange initiated trading. Experience now indicates that five seconds is insufficient for a market maker to enter an adjusted price and communicate the new price to the Exchange. Accordingly, the Exchange proposes to increase the guideline to ten seconds. While ten seconds remains a very short period of time for a market maker to enter an adjusted price, the Exchange believes it is prudent to keep the guideline as low as practically possible. If experience with the ten second guideline indicates that additional time is needed to create a fair opportunity for members to comply with the spread parameters, the Exchange will consider amending the rule to increase the guideline.

With respect to violation Rule 805, the Exchange is proposing to increase the fine amounts and clarify the application of the sanction schedule. Rule 805 requires market makers to execute a minimum percentage of their total volume in appointed options measured on a quarterly basis. The sanction schedule currently provides that a member will receive a letter of caution for the first violation of this requirement within a rolling twelve-month period, and will be subject to a fine of $400, $800 and $1200 for the second, third and fourth violations, respectively. The Exchange believes that it is appropriate to increase the fine amounts to $500, $1000 and $2500, respectively. In addition, the sanction schedule currently indicates that a member will receive a letter of caution for the first offense "within 85% of the requirement" and a fine for the second offense "not within 85% of requirement." The Exchange proposes that both of these references be deleted, as they are inconsistent with each other and the intent of the Rule 1614. In

[8] *See* NASD Code of Procedure, Rule 9311(a).

[9] *See* NASD Code of Procedure, Rule 8320(b).

[10] *See* NASD Code of Procedure, Rule 8330.

[11] This constitutes the requisite notification required for minor rule violation plans under Rule 19d–1 of the Exchange Act.

[12] This language parallels that contained in the Exchange's existing hearing procedures contained in Rule 1605(d), which is proposed to be amended to Rule 1606(e).

particular, paragraph (a) of Rule 1614 states that the Exchange is not required to impose a fine pursuant to the Rule with respect to the violation of any Rule included therein, and that the Exchange may, whenever it determines that any violation is not minor in nature, bring a formal disciplinary action, rather than impose the sanction contained in the minor violation schedule. The Exchange will consider the severity of the violation of Rule 805 in every case, whether it is the first, second, third or fourth violation within a rolling twelve-month period and determine whether it is appropriate to apply the minor rule sanction contained in the schedule or whether formal disciplinary action should be taken.

The final proposed rule change is to Rule 1615, which states that the Exchange may contract with another SRO to perform some or all of the Exchange's disciplinary functions.[13] This rule also states that the Exchange shall specify to what extent the ISE's disciplinary rules govern ISE disciplinary actions and to what extent the rules of another SRO with which the Exchange has contracted shall govern such actions. Notwithstanding any arrangement with another SRO, the ISE retains ultimate legal responsibility for and control of all disciplinary functions, and this is also expressly stated in Rule 1615.

The Exchange proposes to adopt Supplemental Material .01 to Rule 1615 to specify that it has entered into a contract with NASDR to provide professional hearing officers and to act as an agent of the Exchange with respect to the ISE's disciplinary procedures. The proposed provision states that all of the ISE's disciplinary rules shall govern Exchange disciplinary actions. In addition, the provision recognizes that under Rule 1606(a) (as proposed in this filing) the professional hearing officer is designated as the chairman of a hearing panel, and that under Rule 1606(e) (as proposed in this filing), the chairman of the panel has the sole responsibility to determine procedural matters. In the course of discharging his responsibilities, the professional hearing officer shall apply the standards contained in the NASD Code of Procedure, and policies, practices and interpretations thereof, so long as the ISE's Rules are not in conflict.

[13] *See* Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Order Granting Approval of Plan Allocating Regulatory Responsibility; International Securities Exchange LLC and National Association of Securities Dealers, Inc., Securities Exchange Act Release No. 42815 (May 23, 2000), 65 FR 34762 (May 31, 2000).

The Exchange believes this provision strikes the appropriate balance between adopting and applying ISE procedures and gaining the benefit of its relationship with NASDR. Specifically, as described above, the ISE has proposed a disciplinary procedure that is similar to those of other exchanges and which it believes provides members with due process. The ISE also seeks to utilize the experience that has been developed by NASDR over decades of hearing cases and rendering opinions. By directing the professional hearing officer to apply the standards, policies, practices and interpretations under the NASD Code of Procedure where ISE Rules are not in conflict, the ISE represents that the Exchange and its members are able to benefit from this experience. As the ISE gains experience with respect to procedural issues arising during disciplinary hearings, it will propose its own rules where appropriate or when, in the opinion of the Exchange, it believes an interpretation, policy or practice different from what is applied under the NASD Code of Procedure should be applied to ISE disciplinary hearings. In this respect, the ISE will closely monitor determinations made by professional hearing officers and continually evaluate whether procedural issues should be made according to the NASD Code of Procedure.

2. Statutory Basis

The ISE believes that the proposed rule change, as amended, is consistent with the provisions of Section 6(b)(1) of the Act,[14] which requires that an exchange be organized and have the capacity to be able to carry out the purposes of this title and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the exchange. The proposal is designed to further the purposes of Section 6(b)(6)[15] requiring the rules of an exchange to provide that its members and persons associated with its members be appropriately disciplined for violation of the provisions of the Exchange Act, the rules or regulation thereunder, or the rules of the exchange, as well as Section 6(b)(7)[16] requiring the rules of an exchange to provide a fair procedure for the disciplining of members and persons associated with members.

[14] 15 U.S.C. 78f(b)(1).
[15] 15 U.S.C. 78f(b)(6).
[16] 15 U.S.C. 78f(b)(7).

B. Self-Regulatory Organization's Statement on Burden on Competition

The ISE does not believe that the proposed rule change, as amended, 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

Written comments on the proposed rule change, as amended, were neither solicited nor received.

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 ISE consents, the Commission will:

(A) By order approve the proposed rule change, as amended, or

(B) Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written date, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to File No. SR–ISE–2001–04 and should be submitted by June 19, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–13328 Filed 5–25–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–44330; File No. SR–NSCC–2001–08)

Self-Regulatory Organizations; The National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Processing Commission Payments

May 21, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 27, 2001, The National Securities Clearing Corporation ("NSCC") 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 primarily by NSCC.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends the process by which commissions are paid to non-clearing members.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

As part of NSCC's ongoing efforts to increase processing efficiencies, NSCC has decided to modify its rules to further standardize and automate the processing of commission payments to non-clearing members.

In accordance with NSCC Rule 16, NSCC's Commission Bill Service currently permits non-clearing members entitled to a credit to receive their monthly commission bill payments either electronically by Automated Clearing House ("ACH") wire transfer or manually by check. At present, slightly less than 50% of NSCC's approximate 350 non-clearing members physically receive their commission bill payments by check. Such manual distributions are made on the floors of the New York Stock Exchange ("NYSE") and the American Stock Exchange ("AMEX"). The proposed rule change will require all non-clearing members to execute appropriate ACH documentation in order to receive their credit payments.

In the event a non-clearing member does not pay the amount it owes to NSCC, the rule is being changed to explicitly permit NSCC to set-off any future commission bill credits to which it is entitled.

Subject to SEC approval, NSCC will implement the proposed rule changes on July 13, 2001. If a non-clearing member has not executed the appropriate ACH wire transfer documentation such member will not receive any credit payments until it does.

The proposed rule change will facilitate the prompt and accurate payment of commission bill transactions. The proposed rule change is therefore consistent with Section 17A of the Act and the rules and regulations thereunder.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

NSCC has worked with and received the support of the NYSE and the AMEX with respect to these proposed changes. No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety 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 self-regulatory organization 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–2001–08 and should be submitted by June 19, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–13326 Filed 5–25–01; 8:45 am]

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[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] A copy of NSCC's proposed rule change is available at the Commission's Public Reference Section or through NSCC.

[3] The Commission has modified the text of the summaries prepared by NSCC.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44333; File No. SR–ODD–00–04]

Self-Regulatory Organizations; Canadian Derivatives Clearing Corporation; Order Approving Proposed Amendments to Options Disclosure Document

May 22, 2001.

On May 17, 2001, the Canadian Derivatives Clearing Corporation ("CDCC")[1] and Bourse de Montréal, Inc. ("Bourse de Montréal") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Rule 9b–1 under the Securities Exchange Act of 1934 ("Act"),[2] five definitive copies of an amended options disclosure document ("ODD"), which describes the risks and characteristics of Canadian exchange-traded put and call options traded on the Bourse de Montréal.[3]

The Commission has reviewed the amended ODD and finds that it complies with Rule 9b–1 under the Act.[4] Among other things, the CDCC and Bourse de Montréal have revised the ODD to describe changes in the Canadian marketplace. Previously, options cleared and settled by the CDCC were purchased and sold in transactions on the Montréal Exchange (now the Bourse de Montréal), the Toronto Stock Exchange ("TSE"), the Toronto Futures Exchange ("TFE"), and the Vancouver Stock Exchange ("VSE"). Under a Memorandum of Agreement dated March 15, 1999, the Alberta Stock Exchange ("ASE"), the Bourse de Montréal, the TSE, and the VSE agreed that the ASE and the VSE would combine to create a single junior equities market, that all senior equities would be transferred to the TSE, and that the Bourse de Montréal would trade all exchange-traded derivative products, including any type of option contracts. Under this agreement, derivative products traded on the TFE were transformed to the Bourse de Montréal.

Other revisions to the ODD include: a discussion of Enhanced Capital Monitoring,[5] which was introduced in October 2000; a clarification of certain U.S. federal income tax aspects of options transactions; and the addition of new terms to the ODD glossary. The revised ODD further states that the CDCC is now issuing options on the S&P/TSE 60 Index and deletes reference to the TSE 35 Index options and TSE 100 Index options, which the CDCC no longer issues.

Rule 9b–1 under the Act provides that an options market must file five preliminary copies of an amended ODD with the Commission at least 30 days prior to the date when definitive copies of the ODD are furnished to customers, unless the Commission determines otherwise, having due regard to the adequacy of information disclosed and the protection of investors.[6] The Commission has reviewed the amended ODD, and finds that it is consistent with the protection of investors and in the public interest to allow the distribution of the disclosure document as of the date of this order.[7]

It is therefore ordered, pursuant to Rule 9b–1 under the Act,[8] that the proposed amendment to the CDCC and Bourse de Montréal ODD (SR–ODD–00–04) is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–13330 Filed 5–25–01; 8:45 am]

BILLING CODE 8010–01–M

[1] The CDCC was formerly known as Trans Canada Options Inc. ("TCO"). The name of the corporation was changed in January 1996.

[2] 17 CFR 240.19b–1.

[3] The Commission initially approved the use and distribution of the TCO ODD in 1984. *See* Securities Exchange Act Release No. 21365 (October 2, 1984), 49 FR 39400 (October 5, 1984). The Commission subsequently approved several amended versions of the TCO ODD, and after 1996, the CDCC ODD. *See* Securities Exchange Act Release Nos. 37569 (August 14, 1996), 61 FR 43281 (August 21, 1996); 29033 (April 1, 1991), 56 FR 14407 (April 9, 1991); 24480 (May 19, 1987), 52 FR 20179 (May 29, 1987); and 22349 (August 21, 1985), 50 FR 34956 (August 28, 1985).

[4] 17 CFT 240.9b–1.

[5] Enhanced Capital Monitoring is a process designed to assess and mitigate the credit risk of a CDCC Clearing Member to which the CDCC is exposed.

[6] This provision is intended to permit the Commission either to accelerate or extend the time period in which definitive copies of a disclosure document may be distributed to the public.

[7] Rule 9b–1 under the Act provides that the use of an ODD shall not be permitted unless the options class to which the documents relates is the subject of an effective registration statement on Form S–20 under the Securities Act of 1933. On April 20, 2001, the Commission, pursuant to delegated authority, declared effective the CDCC's most recent Post-Effective Amendment to its Form S–20 registration statement. *See* File No. 2–69458.

[8] 17 CFR 240.9b–1.

[9] 17 CFR 200.30–3(a)(39)(i).

SECURITIES AND EXCHANGE COMMISSION

[Docket No. 34–4331; File No. SR–ISE–2001–11]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the International Securities Exchange LLC To Trade Standardized Equity Options on Trust Issued Receipts

May 21, 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 April 20, 2001, the International Securities Exchange LLC ("ISE" and "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On May 17, 2001, the ISE submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new listing and maintenance standards to allow for trading of standardized equity options on trust issued receipts. The text of the proposed rule change follows. Proposed new language is in italics.

* * * * *

Rule 502. Criteria for Underlying Securities

* * * * *

(j) Securities deemed appropriate for options trading shall include shares or other securities ("Trust Issued Receipts") that are principally traded on a national securities exchange or through the facilities of a national

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter to Susie Cho, Division of Market Regulation ("Division"), SEC, from Michael Simon, Senior Vice President and General Counsel, ISE, dated May 16, 2001 ("Amendment No. 1"). In Amendment No. 1, the ISE noted that the trust issued receipts will be issued upon the deposit of the shares of underlying securities represented by a round-lot of 100 receipts and that the trust will cancel, and an investor may obtain, hold, trade or surrender trust issued receipts in a round-lot and round-lot multiples of 100 receipts. The ISE also added proposed margin requirements for options on trust issued receipts and corrected a typographical error in the proposed rule language.

securities association and reported as a national market security, and that represent ownership of the specific deposited securities held by a trust, provided:

(1) the Trust Issued Receipts (i) meet the criteria and guidelines for underlying securities set forth in paragraph (b) to this Rule; or (ii) must be available for issuance or cancellation each business day from the Trust in exchange for the underlying deposited securities, and

(2) not more than 20% of the weight of the Trust Issued Receipt is represented by ADRs on securities for which the primary market is not subject to a comprehensive surveillance agreement.

Rule 503. Withdrawal of Approval of Underlying Securities

* * * * *

(j) Absent exceptional circumstances, securities initially approved for options trading pursuant to paragraph (j) of Rule 502 (such securities are defined and referred to in that paragraph as "Trust Issued Receipts") shall not be deemed to meet the Exchange's requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Trust Issued Receipts, whenever the Trust Issued Receipts are delisted and trading in the Receipts is suspended on a national securities exchange, or the Trust Issued Receipts are no longer traded as national market securities through the facilities of a national securities association. In addition, the Exchange shall consider the suspension of opening transactions in any series of options of the class covering Trust Issued Receipts in any of the following circumstances:

(1) in accordance with the terms of paragraph (b) this Rule 503 in the case of options covering Trust Issued Receipts when such options were approved pursuant to subparagraph (j)(1)(i) under Rule 502;

(2) the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Trust Issued Receipts for 30 or more consecutive trading days;

(3) the Trust has fewer than 50,000 receipts issued and outstanding;

(4) the market value of all receipts issued and outstanding is less than $1,000,000; or

(5) such other event shall occur or condition exist that in the option of the Exchange makes further dealing in such options on the Exchange inadvisable.

(k) For Holding Company Depositary Receipts (HOLDRs), the Exchange will not open additional series of options overlying HOLDRs (without prior Commission approval) if:

(1) the proportion of securities underlying standardized equity options to all securities held in a HOLDRs trust is less than 80% (as measured by their relative weightings in the HOLDRs trust); or

(2) less than 80% of the total number of securities held in a HOLDRs trust underlie standardized equity options.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to provide for the trading of options on trust issued receipts.[4] The Exchange believes that the listing and maintenance criteria proposed in its new rule are consistent with the options listing and maintenance criteria for trust issued receipts currently used by the American Stock Exchange LLC ("Amex"), the Chicago Board Options Exchange, Inc. ("CBOE") and the Pacific Exchange, Inc. ("PCX"),[5] Trust issued receipts are exchange-listed securities representing beneficial ownership of the specific deposited securities represented by the receipts. They are negotiable receipts issued by a trust representing securities of issuers that have been deposited and are held on behalf of the holders of the trust issued receipts. Trust issued receipts, which trade in round-lots of 100, and multiples thereof, may be issued after their initial offering through a deposit with the trustee of the required number of shares of common stock of the underlying issuers. This characteristic of trust issued receipts is similar to that of exchange-traded fund shares, which also may be created on any business day upon deposit of the requisite securities comprising a creation unit.[6] The trust will only issue receipts upon the deposit of the shares of underlying securities that are represented by a round-lot of 100 receipts. Likewise, the trust will cancel, and an investor may obtain, hold, trade or surrender trust issued receipts in a round-lot and round-lot multiples of 100 receipts.

Generally, options on trust issued receipts are proposed to be traded to the Exchange pursuant to the same rules and procedures that apply to trading in options on equity securities. The Exchange will list option contracts covering 100 trust issued receipts, the minimum required round-lot trading size for the underlying receipts. Strike prices for trust issued receipts will be set to bracket the trust issued receipts at the same intervals that apply to other equity options under ISE Rule 504 (*i.e.*, 2½ point intervals for underlying equity values up to $25; 5 point intervals for underlying equity values greater than $25 up to $200; and 10 point intervals for underlying equity values greater than $200). The proposed position and exercise limits for trust issued receipts would be the same as those established for other equity options, as set forth in ISE Rules 412 and 414, respectively. The Exchange anticipates that most options on trust issued receipts will initially qualify for the lowest position limit. However, as with other equity options, applicable position limits will be increased for options if the volume of trading in the trust issued receipts increases to the extent needed to permit a higher limit.

The listing and maintenance standards proposed for options on trust issued receipts are set forth respectively in proposed paragraph (j) under ISE Rule 502, and in proposed paragraphs (j) and (k) under ISE Rule 503. Pursuant to the proposed initial listing standards, , the Exchange will list options only on trust issued receipts that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as national market securities. In addition,

[4] The Exchange is not proposing at this time to list FLEX options on trust issued receipts.

[5] *See* Securities Exchange Act Release No. 44138 (March 30, 2001), 66 FR 19593 (April 16, 2001) (approving SR–PCX–2001–15); Securities Exchange Act Release No. 43043 (July 17, 2000), 65 FR 46520 (July 28, 2000) (approving SR–CBOE–00–25); and Securities Exchange Act Release No. 42947 (June 15, 2000), 65 FR 39211 (June 23, 2000) (approving SR–Amex–99–37).

[6] The Exchange received approval to trade options on exchange-traded fund shares on February 28, 2001. *See* Securities Exchange Act Release No. 44037 (March 2, 2001), 66 FR 14613 (March 13, 2001).

the initial listing standards require that either: (i) The trust issued receipts meet the uniform options listing standards in paragraph (b) of ISE Rule 502, which include criteria covering the minimum public float, trading volume, and share price of the underlying security in order to list the option; [7] or (ii) the trust issued receipts must be available for issuance or cancellation each business day from the trust in exchange for the underlying deposited securities.

In addition, listing standards for options on trust issued receipts will require that any American Depository Receipts ("ADRs") in the portfolio on which the Trust is based for which the securities underlying the ADRs' primary markets are in countries that are not subject to comprehensive surveillance agreements will not in the aggregate represent more than 20 percent of the weight of the portfolio.

The Exchange's proposed maintenance standards provide that if a particular series of trust issued receipts should cease to trade on an exchange or as national market securities in the over the-counter market, there will be no opening transactions in the options on the trust issued receipts, and all such options will trade on a liquidation-only basis (*i.e.*, only closing transactions to permit the closing of outstanding open options positions will be permitted). In addition, the Exchange will consider the suspension of opening transactions in any series of options of the class covering trust issued receipts if: (i) For options on trust issued receipts that were listed pursuant to the equity option listing standards in paragraph (j)(1)(i) of ISE Rule 502, the options fail to meet the option maintenance standards in paragraph (b) of ISE Rule 503; [8] (ii) the trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of trust issued receipts for 30 or more consecutive trading days; (iii) the trust has fewer than 50,000 receipts issued and outstanding; (iv) the market value of all receipts issued and outstanding is less than $1,000,000; or (v) such other event shall occur or condition exists that, in the opinion of the Exchange, makes further dealing in such options on the Exchange inadvisable. Furthermore, the Exchange will not open additional series of options on any Holding Company Depositary Receipts ("HOLDRs"), a type of trust issued receipt, without prior Commission approval, if: (i) The proportion of securities underlying standardized equity options to all securities held in a HOLDRs trust is less than 80 percent (as measured by the relative weightings in the HOLDRs trust); [9] or (ii) less than 80 percent of the number of securities held by a HOLDR trust underlie standardized options.

Options on trust issued receipts will be physically settled and will have the American-style exercise feature used on all equity options, and not the Europeans-style feature.[10] The proposed margin requirements for options on trust issued receipts are at the same levels that apply to options generally under ISE Rule 1202,[11] except, with respect to trust issued receipts based on a broad-based portfolio, minimum margin must be deposited and maintained equal to 100% of the current market value of the option plus 15% of the market value of equivalent units of the underlying security value. Trust issued receipts that hold securities based upon a narrow-based portfolio must have options margin that equals at least 100% of the current market value of the contract plus 20% of the market value of equivalent unit of the underlying security value. In this respect, the margin requirements proposed for options on trust issued receipts are comparable to margin requirements that currently apply to broad-based and narrow-based index options on the NYSE and CBOE.[12] Also, holders of options on trust issued receipts that exercise and receive the underlying trust issued receipts must receive a product description or prospectus, as appropriate.

Lastly, the Exchange believes it has the necessary system capacity to support the additional series of options that would result from the trading of options on trust issued receipts, and it has been advised that the Options Price Reporting Authority ("OPRA") also will have the capacity to support these additional series.

2. Statutory Basis

The ISE believes that the proposed rule change is consistent with Section 6(b)(5) of the Act.[13] Section 6(b)(5) requires that exchange rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The ISE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange did not solicit or receive comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be

[7] Specifically, paragraph (b) of ISE Rule 502 requires the underlying security to have a public float of 7,000,000 shares, 2,000 holders, trading volume of 2,400,000 shares in the preceding 12 months, a share price of $7.50 for the majority of the business days during the three calendar months preceding the date of the selection, and that the issuer of the underlying security is in compliance with the Act.

[8] Specifically, paragraph (b) of ISE Rule 503 provides that an underlying security will not meet the Exchange's requirements for continued listing when, among other things: (i) There are fewer than 6,300,000 publicly-held shares; (ii) there are fewer than 1,600 holders; (iii) trading volume was less than 1,800,000 shares in the preceding twelve months; or (iv) the share price of the underlying security closed below $5 on a majority of the business days during the preceding six months.

[9] The Exchange represents that the weight of each security in a HOLDR trust will be determined by calculating the sum of the number of shares of each security (represented in a single HOLDR) and underlying options multiplied by its respective share price divided by the sum of the number of shares of all securities (represented in a single HOLDR) multiplied by their respective share prices.

[10] An American-style option may be exercised at any time prior to its expiration, while a European-style option may be exercised only at its expiration date.

[11] The Exchange's margin rules cross-reference the rules of the CBOE and the New York Stock Exchange, Inc ("NYSE")

[12] The Exchange agrees to modify its margin rules to reflect the proposed margin requirements for options on trust issued receipts based on broad-based and narrow-based indexes. *See* Amendment No. 1, *supra* note 3.

[13] 15 U.S.C. 78f(b)(5).

available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR–ISE–2001–11 and should be submitted by June 19, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Section 6(b)(5).[14] The Commission notes that it has previously approved similar listing standards proposed by the Amex, CBOE, and PCX for options on trust issued receipts, and it believes that the ISE's proposal contains adequate safeguards, matching those previously approved.[15] As the Commission found in its previous approvals of the listing standards proposed by the other exchanges, the listing and trading of options should give investors a better means to hedge their positions in the underlying trust issued receipts. The Commission also believes that pricing of the underlying trust issued receipts may become more efficient, and market makers in these shares, by virtue of enhanced hedging opportunities, may be able to provide deeper and more liquid markets. In sum, the Commission believes that options on trust issued receipts likely will engender the same benefits to investors and the marketplace that exist with respect to options on common stock, thereby serving to promote the public interest, to remove impediments to a free and open securities market, and to promote efficiency, competition, and capital formation.[16]

The Commission finds that the Exchange's listing and delisting criteria for options on trust issued receipts are adequate. The proposed listing and maintenance requirements should ensure that there exist adequate supplies of the underlying trust issued receipts in case of the exercise of an option, and a minimum level of liquidity to control against manipulation and to allow for the maintenance of fair and orderly markets. The ISE's additional requirements for opening additional series of options on HOLDRs will also ensure that the underlying securities are options eligible, and for the most part will satisfy minimum thresholds previously approved by the Commission.

The Commission also believes that the surveillance standards developed by the ISE for options on trust issued receipts are adequate to address the concerns associated with the listing and trading of such securities. The ISE's proposal to limit the weight of the portfolio that may be composed of ADRs whose primary markets are in countries that are not subject to comprehensive surveillance agreements is similar to that previously approved by the Commission.[17] As to domestically traded trust issued receipts themselves and the domestic stocks in the underlying portfolio, the Intermarket Surveillance Group ("ISG") Agreement will be applicable to the trading of options on trust issued receipts.[18]

Finally, the Commission believes that the ISE's proposed margin requirements, which mirror those of the CBOE, are appropriate.[19] The Commission notes that they are comparable to margin requirements that currently apply to broad-based and narrow-based index options, and to those previously approved for use at the Amex, CBOE, and PCX.[20]

The Commission finds good cause for approving the proposed rule change (SR–ISE–2001–11) prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** under Section 19(b)(2) of the Act.[21] As noted above, the trading requirement for options on trust issued receipts at the ISE will be substantially similar to those at the Amex, CBOE, and PCX, which the Commission has approved.[22] The Commission does not believe that the proposed rule change raises novel regulatory issues that were not already addressed and should benefit holders of trust issued receipts by permitting them to use options to manage the risks of their positions in the receipts. Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,[23] to approve the proposal on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–ISE–2001–11) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

Margaret H. McFarland,

Deputy Secretary.

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[14] 15 U.S.C. 78f(b)(5).

[15] *See supra* note 5.

[16] In approving this rule, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] *See supra* note 5.

[18] ISG was formed on July 14, 1983, to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets.

[19] *See supra* note 5.

[20] The Commission also notes that the ISE will file a proposed rule change to amend its margin rules, if necessary. *See* Amendment No. 1, *supra* note 3.

[21] 15 U.S.C. 78s(b)(2).

[22] *See supra* note 5.

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44332; File No. SR–NASD–00–77]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Registration Requirements for Limited Principals-Financial and Operations and Limited Principals-Introducing Broker/Dealer Financial and Operations

May 21, 2001.

I. Introduction

On December 20, 2000, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 19b–4 thereunder.[2] The proposal amends NASD Rule 1022(b), "Limited Principal—Financial and Operations" ("FINOP"), NASD Rule 1022(c), "Limited Principal—Introduction Broker/Dealer Financial and Operations" ("Introducing FINOP"), and NASD Rule 9610, "Procedures for Exemptions." Notice of the proposed rule change was published for comment in the **Federal Register** on February 9, 2001.[3] The Commission received one comment letter regarding the proposal.[4] This order approves the proposed rule change.

[1] 15 U.S.C. 78s(b)(1)

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 43928 (February 5, 2001), 66 FR 9737.

[4] *See* letter to the Secretary, SEC, from the Ad Hoc Committee for Small Firm Financial and Operational Responsibility ("Ad Hoc Committee"), dated March 2, 2001 ("Ad Hoc Committee Letter").

II. Description of the Proposed Rule Change

NASD Rules 1022(b) and 1022(c) set forth registration requirements for FINOPs and Introducing FINOPs. NASD Regulation proposes to amend NASD Rules 1022(b) and 1022(c) to clarify their applicability to NASD members by making citations in them consistent with Rule 15c3–1 under the Exchange Act.[5] Specifically, the proposed amendments to NASD Rule 1022(b) clarify that every broker or dealer operating pursuant to Exchange Act Rule 15c3–1(a)(1)(ii) or (a)(2)(i)[6] (both of which subject brokers or dealers to a minimum net capital requirement of $250,000), or Exchange Act Rule 15c3–1(a)(8)[7] (which subjects municipal securities brokers' brokers to a minimum $150,000 net capital requirement) must have a FINOP. The proposed amendments to NASD Rule 1022(c) clarify that all other brokers or dealers subject to Exchange Act Rule 15c3–1 must have at least one associated person registered as an Introducing FINOP.

FINOPs must pass the Series 27 Principal Examination and Introducing FINOPs must pass the Series 28 Principal Examination. NASD Rule 1022(c) currently provides that a person qualified as a Series 27 FINOP is not required to take the Series 28 Examination if he or she is employed as an Introducing FINOP. NASD Regulation proposes to make a technical correction to NASD Rule 1022(c)(3) by adding a reference to paragraph (b)(2) of NASD Rule 1022, which defines the term "Limited Principal—Financial and Operations."

NASD Regulation also proposed to eliminate the ability of members subject to Exchange Act Rule 15c3–1 to request exemptions from the requirement to have a FINOP by amending NASD Rule 1022(b) and by striking NASD Rule 1022 from the list of rules in NASD Rule 9610(a) from which members may seek exemptive relief. Although firms subject to Exchange Act Rule 15c3–1 will be required to have a FINOP, they may continue to seek exam waivers for qualified individuals pursuant to paragraph (e) of NASD Rule 1070, "Qualification Examination and Waiver of Requirements."

The proposed changes to NASD Rules 1022(b) and 1022(c) also makes clear that the requirements to have a FINOP or Introducing FINOP applies only to firms that are subject to Exchange Act Rule 15c3–1. Members that are exempt from or otherwise not subject to Exchange Act Rule 15c3–1 will no longer be subject to NASD Rules 1022(b) and 1022(c), and will not need to seek exemptive relief from them.

The proposed changes will not affect individuals who currently are grandfather for the Series 27 or Series 28 Examinations because they are considered to possess the license for which they were grandfathered.[8] In addition, firms that currently are the subject of a FINOP waiver will not be subject to the proposed rule changes.[9]

Finally, NASD Regulation proposes to amend NASD Rule 9610(a) to clarify that the NASD Rule 9600 "Procedures for Exemptions" series merely sets forth procedures for seeking exemptive relief and that the type of relief that may be requested, and the authority to grant it, is found in the rules listed in NASD Rule 9610(a).

III. Summary of Comments

The Commission received one comment letter regarding the proposed rule change.[10] NASD Regulation responded to this commenter in a letter dated April 9, 2001.[11]

The Ad Hoc Committee opposed the proposal. Specifically, the Ad Hoc Committee asserted that certain limited function broker-dealers, including broker-dealers that the Ad Hoc Committee identified as "private placement and mutual fund firms" do not required a registered FINOP. In addition, the Ad Hoc Committee maintained that the proposal would place new limited function broker-dealers at a competitive disadvantage to established NASD members operating under a FINOP waiver. The Ad Hoc Committee also suggested that some managerial employees of limited function broker-dealers might lack expertise in financial and operational matters, even after passing the requisite examinations, and that the outsourcing of such functions was appropriate for these broker-dealers.[12]

In its response, NASD Regulation asserted that compliance with net capital and other financial operational rules is not dependent on the size of a firm's business. NASD Regulation also stated that it did not believe that new firms which will be required to employ a registered FINOP will be at a competitive disadvantage because they will continue to be able to employ FINOPs on a part-time or outsourced basis, although the proposed changes will require such personnel to register as FINOPs. Finally, in response to the Ad Hoc Committee's concerns about the qualifications of some employees of broker-dealers to function as FINOPs, NASD Regulation asserted that any person who passes the Series 27 or 28 is qualified to act as a FINOP or Introducing FINOP, respectively.[13]

IV. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulation thereunder applicable to a national securities association.[14] The Commission finds that the proposal is consistent with the requirements of Section 15A(b)(6) of the Act,[15] which 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.

As discussed more fully above, NASD Regulation proposes to amend NASD Rules 1022(b) and (c) to provide that every broker or dealer operating pursuant to the provisions of Exchange Act Rule 15c3–1(a)(1)(ii), (a)(2)(i), or (a)(8)[16] must have at least one FINOP, and that all other brokers or dealers subject to the requirements of Exchange Act Rule 15c3–1 must have at least one Introducing FINOP. FINOPs and Introducing FINOPS must be registered with the NASD. NASD Regulation also

[5] 17 CFR 240.15c3–1.

[6] 17 CFR 240.15c3–1(a)(1)(ii) and (a)(2)(i).

[7] 17 CFR 240.15c3–1(a)(8).

[8] Only individuals who qualified as "Financial Principals" before the establishment of the Series 27 examination were grandfathered as FINOPs and were not required to take either of the examinations.

[9] Telephone conversation between Shirley Weiss, Attorney, NASD Regulation, and Andrew Shipe, Attorney, Division of Market Regulation, SEC, on January 11, 2001.

[10] *See* Ad Hoc Committee Letter, *supra*, note 4. According to the Ad Hoc Committee Letter, the Ad Hoc Committee, whose members perform financial and operational services for NASD members, was formed solely to respond to the NASD's proposal. The organization comprising the Ad Hoc Committee are: Buchanan Associates, Cogent Management, Inc., Integrated Management Solutions, JRS Financial Services, LLC, Hagan and Burns, CPAs, and MGL Consulting Corporation.

[11] *See* Letter to England, Assistant Director, Division of Market Regulation, SEC, from Shirley Weiss, Associated General Counsel, NASD Regulation ("NASD Regulation Letter").

[12] *See* Ad Hoc Committee Letter, *supra*, note. 4.

[13] *See* NASD Regulation Letter, *supra*, note 11.

[14] In approving the proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78o(b)(6).

[16] 17 CFR 240.15c3–1(a)(1)(ii), (a)(2)(i), and (a)(8).

proposes to eliminate the ability of members subject to Exchange Act Rule 15c3–1 to request an exemption from the requirements, and to strike NASD Rule 1022 from the list of rules in NASD Rule 9610(a) from which a member may seek exemptive relief. NASD members that are exempt from or otherwise not subject to Exchange Act Rule 15c3–1 would not be subject to the requirements of either NASD Rule 1022(b) or 1022(c) and thus no longer required to seek exemptive relief from them.

The Commission believes that the proposed changes are consistent with the Act and the rules and regulations thereunder. Specifically, the Commission believes that the proposal to identify the classes of brokers or dealers that are required to designate a FINOP or an Introducing FINOP will protect investors and the public interest by helping to ensure that the financial and operations personnel of broker-dealers subject to Exchange Act Rule 15c3–1 have the training and competence needed to ensure the member's compliance with applicable net capital, recordkeeping and other financial and operational rules.

With regard to the Ad Hoc Committee's contention that the proposal should not apply to certain limited function broker-dealers, the Commission agrees with NASD Regulation's assertion that compliance with the Commission's net capital and other financial and operational rules does not depend on the size of a broker-dealer's business.[17] As noted above, the Commission believes the proposal will help to ensure NASD members' compliance with applicable net capital, recordkeeping, and other financial and operational rules. In addition, the Commission does not believe that the proposal will create a significant competitive disadvantage for new limited function broker-dealers who will be required to register a FINOP or an Introducing FINOP. In this regard, the Commission notes that a limited function broker-dealer will be able to employ a FINOP or an introducing FINOP on a part-time basis.

The Commission finds that the proposed changes to NASD Rule 9610(a) are consistent with the Act because they clarify NASD Rule 9610(a). Specifically, the amendments to NASD Rule 9610(a) clarify that the Rule 9600 Series merely sets forth procedures for seeking exemptive relief, and that the type of relief that may be requested, and the authority to grant it, is found in the rules listed in NASD Rule 9610(a). In addition, the amendments to NASD Rule 9610(a) make NASD Rule 9610(a) consistent with NASD Rule 1022, as amended, by deleting NASD Rule 1022 from the list of rules from which a member may seek exemptive relief.

Finally, the Commission finds that the proposal to amend NASD Rule 1022(c)(3) by adding a reference to paragraph (b)(2) of NASD Rule 1022 is consistent with the Act because it will help to clarify the application of NASD Rule 1022(c)(3).

V. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[18] that the proposed rule change (SR–NASD–00–77) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

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[17] *See* NASD Regulation Letter, *supra*, note 11.

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44322; File No. SR–NSCC–00–09]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Processing Certain Securities Undergoing Reorganization

May 18, 2001.

On July 12, 2000, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–NSCC–00–09) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on March 9, 2001.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

NSCC's rules permit NSCC to continue to process certain securities undergoing reorganization or issuing dividends and specify how NSCC shall handle those issues. However, not all types of reorganizations or dividends fit the procedures specifically set forth in the rules. Ordinarily, this would require that the affected security be exited from the applicable system. Exiting the affected security from the applicable system poses a burden on the financial investment community when the issue is widely traded.

The proposed rule change modifies NSCC's Rules and Procedures to give NSCC the flexibility to process in the continuous net settlement ("CNS"), balance order, or other related system, on an exception basis, securities that would not otherwise have been eligible for processing to the extent NSCC has the capability to do so. The proposed rule change provides that in such circumstance, NSCC would issue a notice to its members setting forth how NSCC would process the security.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F).[3] Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that NSCC's rule change meets this standard because the proposed rule change allows NSCC to process otherwise ineligible securities in NSCC's CNS system, balance order, or other related system, on an exception basis. By providing a means whereby these securities, which previously would not have been eligible for processing through NSCC, can be processed through and receive the benefits of NSCC's highly automated systems, the proposed rule change facilitates the prompt and accurate clearance and settlement of such securities transactions.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–00–09) be an hereby is approved.

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 44032 (March 3, 2001), 66 FR 14237.

[3] 15 U.S.C. 78q–1(b)(3)(F).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–13327 Filed 5–25–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44334; File No. SR–SCCP–2001–04]

Self-Regulatory Organizations; The Stock Clearing Corporation of Philadelphia; Notice of Filing of Proposed Rule Change Relating to the Establishment of Fines for Late Margin Call Payments and an Appeal Process for Such Fines

May 22, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), as amended, notice is hereby given that on, February 27, 2001, The Stock Clearing Corporation of Philadelphia ("SCCP") 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 primarily by SCCP. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.[1]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to amend SCCP Rule 9, Margin Accounts, to include a fine schedule for late payments of margin calls. The proposed rule change will also allow SCCP to amend Rule 23, Right of Appeal, to provide for a right of appeal for margin members[2] who wish to appeal imposition of the fine for late payments of margin calls.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, SCCP 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. SCCP has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to implement late fines on SCCP margin members who are late meeting a margin call payment. The proposed rule change is intended to encourage the timely payments of margin calls. Rule 9 provides, in part, that SCCP will provide margin accounts for margin members that clear and settle their transactions through SCCP's omnibus clearance and settlement account. SCCP provides margin for such accounts based on its procedures and Regulation T of the Board of Governors of the Federal Reserve System. Margin members who are designated as specialists or alternate specialists in a security receive margin credit of 15% with respect to positions in that security held in their specialist accounts. Members holding positions for which they are not designated as a specialist or alternate specialist receive non-specialist margin credit of 50%. SCCP may issue margin calls to any margin member when the margin requirement exceeds the account equity. Pursuant to SCCP procedures, margin call payments are due by 12:00 p.m. EST the business day of the call. Late margin payments are not currently subject to a specific late fine although members may be subject to possible disciplinary action pursuant to SCCP Rule 22.

SCCP believes that implementation of the proposed fine schedule will reduce the number of incidents of late margin call payments by members. Notwithstanding the late margin call payment fine, members would continue to be subject to possible disciplinary action pursuant to SCCP Rule 22.

Currently, Rule 23 provides, in relevant part, a SCCP participant[3] with the right to appeal from any decision or decisions of SCCP resulting in sanctions or penalties imposed under Rule 20 or 22.[4] SCCP proposes to include fines imposed under Rule 9 to the list of applicable actions specified in Rule 23. The proposed inclusion in Rule 23 of a margin member's right to appeal a fine for late margin call payments will provide members a process by which to dispute implementation of such fines.

SCCP believes that the proposed rule change will facilitate ensuring compliance with SCCP's rules regarding margin and Regulation T and is therefore consistent with section 17A(b)(3)(A) of the Act and specifically with section 17A(b)(3)(F) of the Act in that it is designated to promote the prompt and accurate settlement of securities transactions and to remove impediments to and perfect the mechanism of a national system in that the proposed fine for late margin calls will encourage margin members to submit margin payments in a timely manner therefore reducing the frequency of late margin call payments.

(B) Self-Regulatory Organization's Statement on Burden on Competition

SCCP does not believe that the proposed rule change will impose any inappropriate 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 either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety 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 SCCP 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

[4] 17 CFR 200.30–3(a)(12).

[1] A copy of the text of SCCP's proposed rule change and the attached exhibits are available at the Commission's Public Reference Section or through SCCP.

[2] The term "margin member" means participants who are Philadelphia Stock Exchange specialists, alternate specialists, and other Phlx floor members specifically approved by the National Securities Clearing Corporation to effect trading in a margin account in accordance with SCCP Rule 9.

[3] The term "participants" means persons or organizations which have qualified for membership in SCCP pursuant to SCCP Rules 2 and 3. Participants are also referred to in SCCP Rules as "members."

[4] *See* SCCP Rule 23 section 1(c).

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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of SCCP. All submissions should refer to File No. SR–SCCP–2001–04 and should be submitted by June 19, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–13384 Filed 5–25–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3342]

Commonwealth of Pennsylvania

Montgomery County and the contiguous counties of Bucks, Berks, Chester, Delaware, Lehigh and Philadelphia in the Commonwealth of Pennsylvania constitute a disaster area due to damages caused by a multiple alarm fire that occurred on May 15 and 16, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on July 23, 2001 and for economic injury until the close of business on February 25, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.625
Homeowners without credit available elsewhere	3.312
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 334205 and for economic injury is 9L7600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 22, 2001.

John Whitmore,

Acting Administrator.

[FR Doc. 01–13425 Filed 5–25–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Program for Investment in Microentrepreneurs (PRIME); Notice of Funds Availability (NOFA) Inviting Applications for the PRIME Program

AGENCY: U.S. Small Business Administration.

ACTION: Notice of funds availability (NOFA) inviting applications.

SUMMARY: The Program for Investment in Microentrepreneurs Act of 1999 (Pub.L. 106–102), enacted November 12, 1999, ("the Act") authorizes the U.S. Small Business Administration ("SBA") to award grants under the Program for Investment in Microentrepreneurs (PRIME) Program. The Acting Administrator of the SBA invites applications for selection as a participating grantee under the PRIME Program. The Final Rule (13 CFR part 119) published in today's **Federal Register** provides guidance on the contents of the necessary application materials, evaluation criteria and other program requirements. Applicants for selection as a participating grantee can find more detailed application content requirements in the PRIME program announcements, that are available on SBA's website at: *http://www.sba.gov/financing/frprime.html*

SBA expects to award grants of up to $250,000 to a minimum of 60 PRIME Program participants. A total of $15 million is available for this purpose. SBA reserves the right to select and fund some, all, or none of the applicants for participation in the PRIME program.

DATES: Applications may be submitted to SBA immediately. The deadline for receipt of an application is 4:00 p.m. EST on June 28, 2001. Applications received in SBA's offices after that date and time, with the exception of mailed applications as indicated in the Program Announcements, will be rejected and returned to the sender.

ADDRESSES: Applications must be sent to U.S. Small Business Administration, Office of Procurement and Grants Management, 409 3rd Street, SW, Washington, DC 20416, Attn: Mina Bookhard, Agreement Officer. Applications sent electronically or by facsimile will not be accepted.

FOR FURTHER INFORMATION CONTACT: If you have any questions about the requirements for this program or application procedures, or if you are unable to access the application via the internet, contact Warren Boyd, Jaunice Cromer, or Felicia Smith at the SBA Microenterprise Development Branch, 202–205–6485. Applications may be downloaded from SBA's web site at: *http://www.sba.gov/financing/frprime.html*

Program Authority: Program for Investment in Microentrepreneurs Act, Pub. L. No. 106–102, and 13 CFR part 119.

Dated: May 21, 2001.

Jeanne Sclater,

Acting Associate Deputy Administrator, Office of Capital Access.

[FR Doc. 01–13231 Filed 5–25–01; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

President's Commission To Strengthen Social Security

AGENCY: Social Security Administration (SSA).

ACTION: Announcement of meeting.

DATES: June 11, 2001, 10 a.m.—6 p.m.

ADDRESSES: Washington, DC—Exact location to be determined. Due to unforeseen circumstances the room location has not been identified to date, but notice of the exact location will be provided in the **Federal Register** as soon as it is available.

SUPPLEMENTARY INFORMATION:

Type of meeting: The meeting will be open to the public between 11 a.m. and 6 p.m. In accordance with the Government in the Sunshine Act, 5 U.S.C. 552b(c), the meeting will be closed to the public from 10 a.m. to 11 a.m. to conduct housekeeping business relating solely to Federal personnel rules and practices and other administrative matters.

Due to extenuating circumstances in obtaining meeting space the Commission was unable to publish this meeting notice 15 days prior to the actual meeting.

Executive order 13210 established the Commission, which is intended to provide bipartisan recommendations to the President for modernizing and

restoring fiscal soundness to the Social Security system according to the following principles: modernization must not change Social Security benefits for retirees or near retirees; the entire Social Security surplus must be dedicated to Social Security only; Social Security payroll taxes must not be increased; the Government must not invest Social Security funds in the stock market; modernization must preserve Social Security's disability and survivors components; and modernization must include individually controlled, voluntary personal retirement accounts, which will augment the Social Security safety net.

Purpose: This is the first deliberative meeting of the Commission. No public testimony will be heard at this meeting. However, interested parties are invited to attend the meeting.

Agenda: The Commission will meet commencing Monday, June 11, 2001, at 10 a.m. The meeting will be open to the public at 11 a.m., when the Commission will discuss its organization, upcoming agenda, and interim report. From 2 p.m. until 6 p.m., Commission staff will respond to information requests from Commission members.

Closer to the meeting date, a more detailed meeting agenda may be obtained by contacting the Commission staff at the mailing address or telephone number below.

Records are being kept of all Commission proceedings and will be available for public inspection at the Commission's office at the address below. Documents such as meeting announcements, agendas, minutes, and the interim and final reports will be available on the Commission's web page, which is currently under construction. Anyone requiring information regarding the Commission should contact the Commission staff by:

- Internet at *www.CommToStrengthenSocSec.gov* (under construction, not currently available;
- Mail addressed to President's Commission to Strengthen Social Security, 734 Jackson Place, NW, Washington, DC, 20503;
- Telephone at (202) 343–1255;
- Email to Michael Anzick, Designated Federal Officer, at "Michael.Anzick@SSA.gov"

Dated: May 23, 2001.

Larry G. Massanari,

Acting Commissioner of Social Security.

[FR Doc. 01–13486 Filed 5–24–01; 2:06 pm]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–39]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on May 22, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–9096 (previously Docket No. 24446).

Petitioner: Air Transport Association of America.

Section of 14 CFR Affected: 14 CFR 121.485(b).

Description of Relief Sought/ Disposition: To permit ATA-member airlines and other similarly situated part 121 air carriers to conduct flights of less than 12 hours' duration with an airplane having a flight crew of three or more pilots and an additional flight crewmember without requiring the rest period following that flight to be twice the hours flown since the last rest period at each flight crewmember's home base.

Grant, 04/25/2001, Exemption No. 4317H.

Docket No.: 30173.

Petitioner: Raytheon Aircraft Company.

Section of 14 CFR Affected: 14 CFR 25.785(b).

Description of Relief Sought/ Disposition: To permit relief from the general occupant protection requirements for occupants of multiple place side-facing seats that are occupied during takeoff and landing in any Raytheon Model 4000 airplane manufactured prior to January 1, 2004.

Partial Grant, 04/23/2001, Exemption No. 7512.

Docket No.: 29361.

Petitioner: Columbia Helicopters, Inc.

Section of 14 CFR Affected: 14 CFR 135.152(a).

Description of Relief Sought/ Disposition: To permit CHI to operate eight Boeing Chinook Model BV–234 and fifteen Boeing/Kawasaki Vertol 107 Model BV/KV–107–II helicopters under part 135 without an approved digital flight data recorder installed in each aircraft.

Grant, 04/17/2001, Exemption No. 7509.

Docket No.: FAA–2000–8157.

Petitioner: Petroleum Helicopters, Inc.

Section of 14 CFR Affected: 14 CFR 135.152(a).

Description of Relief Sought/ Disposition: To permit PHI to operate three Bell 212 helicopters (Registration Nos. N1074C, N5009N, and N5736D; Serial Nos. 30989, 30915, and 31135, respectively), two Bell 214ST helicopters (Registration Nos. N59805 and N59806; Serial Nos. 28141 and 28140, respectively), four Bell 412 helicopters (Registration Nos. N2014K, N2258F, N3893L, and N30YM; Serial Nos. 33020, 33073, 33006, and 36032, respectively), two Sikorsky S–76A helicopters (Registration Nos. N760PH and N761PH; Serial Nos. 760078 and 760224, respectively), and one Bell 412SP helicopter (Registration No. N142PH; Serial No. 33150) under part 135 without an approved digital flight data recorder installed on each helicopter.

Grant, 04/20/2001, Exemption No. 6713F.

Docket No.: FAA–2000–8514.

Petitioner: Addison Aviation Services, Inc.

Section of 14 CFR Affected: 14 CFR 25.857(e)(4).

Description of Relief Sought/ Disposition: To provide AAS with relief from 14 CFR 25.857(e)(4) pertaining to the exclusion of hazardous quantities of smoke, flames, and noxious gases from the flight crew compartment to permit supplemental type certification of the Learjet Model 25 series airplanes modified for the carriage of cargo.

Grant, 04/11/2001, Exemption No. 7507.

[FR Doc. 01–13440 Filed 5–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–40]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before June 18, 2001.

ADDRESSES: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–200–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, and stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, D.C., on May 22, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2000–8590.
Petitioner: Delta Air Lines, Inc.
Section of 14 CFR Affected: 14 CFR 121.339(a)(3).
Description of Relief Sought: To permit Delta to replace its approved pyrotechnic signaling device with a hand-held, high-intensity, stroboscopic light source (Aviation Distress Signal).

Docket No.: FAA–2001–9346.
Petitioner: BFGoodrich.
Section of 14 CFR Affected: 14 CFR 25.813(e).
Description of Relief Sought: To provide BFGoodrich with relief from the requirements of 14 CFR 25.813(e) pertaining to the installation of sliding pocket doors in partitions between passenger compartments in Bombardier BD–700–1A10 Global Express airplanes used for corporate transport.

Docket No.: FAA–2001–9458.
Petitioner: The Boeing Company.
Section of 14 CFR Affected: 14 CFR 25.785(h)(2), 25.807(d)(7), 25.813(e), and 25.853(d).
Description of Relief Sought: To permit business jet interiors to be designed for "private, not-for-hire use" on Boeing Model 737–800 airplanes.

[FR Doc. 01–13441 Filed 5–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–41]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on May 22, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–9497.
Petitioner: Moody Aviation.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121.
Description of Relief Sought/Disposition: To permit Moody Aviation to conduct local sight seeing flights at Elizabethton Municipal Airport for one day during the annual Covered Bridge Celebration in June 2001, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.

Grant, 05/09/2001, Exemption No. 7529.

Docket No.: FAA–2001–9579.
Petitioner: Ashland County Airport and Johnston Aviation.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121.
Description of Relief Sought/Disposition: To permit Ashland County Airport and Johnston Aviation to conduct local sightseeing flights at the Ashland County Airport for the annual Open House in July 2001 and the Fall Foliage flights in October 2001 for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.

Grant, 05/09/2001, Exemption No. 7528.

Docket No.: FAA–2001–9493.
Petitioner: Brookings Flying Club, Inc.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121
Description of Relief Sought/Disposition: To permit BFC to conduct local sightseeing flights at the Brookings, Oregon, airport for the one-day Airport Day Scholarship

Fundraising airlifts in May 2001, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.

Grant, 05/08/2001, Exemption No. 7527.

Docket No.: FAA–2001–9555.

Petitioner: Wings of Denver Flying Club, Aspen Flying Club, Key Lime Flights, and Barnstomers Aero Services.

Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121.

Description of Relief Sought/ Disposition: To permit WDFC, AFC, KLF, ahd BAS to conduct local sightseeing flights at Centennial Airport for Centennial Annual Open House on May 12, 2001, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.

Grant, 05/08/2001, Exemption No. 7526.

Docket No.: FAA–2001–8338.

Petitioner: Tatonduk Outfitters, Limited dba Tatonduk Flying Service dba Air Cargo Express.

Section of 14 CFR Affected: 14 CFR 121.345(c)(2) and 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit ACE to operate certain aircraft under part 121 and part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 05/07/2001, Exemption No. 7403A.

Docket No.: FAA–2001–9160 (previously Docket No. 24187).

Petitioner: Florida Department of Law Enforcement.

Section of 14 CFR Affected: 14 CFR 91.209(a)(1) and (b), and (2).

Description of Relief Sought/ Disposition: To permit FDLE to conduct operations in support of drug law enforcement and drug traffic interdiction without complying with the visual flight rules cruising altitude requirements or without lighted aircraft position and anticollision lights while operating between sunset and sunrise.

Grant, 05/04/2001, Exemption No. 3596G.

Docket No.: FAA–2001–9163 (previously Docket No. 27143).

Petitioner: Columbia Helicopters, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit CHI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 05/07/2001, Exemption No. 6905A.

Docket No.: FAA–2001–9593.

Petitioner: TNT Leasing Company, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit TNT to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 05/07/2001, Exemption No. 7525.

Docket No.: FAA–2001–9594.

Petitioner: Edwards & Associates, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Edwards to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 05/07/2001, Exemption No. 7524.

Docket No.: FAA–2001–9492.

Petitioner: Arctic Circle Air Service, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit ACAS to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 05/07/2001, Exemption No. 7523.

[FR Doc. 01–13442 Filed 5–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aging Transport Systems Rulemaking Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new taskings for the Aging Transport Systems Rulemaking Advisory Committee.

SUMMARY: Notice is given of the new taskings assigned to and accepted by the Aging Transport Systems Rulemaking Advisory Committee. This notice informs the public of the activities of the Committee.

FOR FURTHER INFORMATION CONTACT: Charles Huber, Manager, Program Management Branch, ANM–114, Executive Director of ATSRAC, Federal Aviation Administration, 1601 Lind Avenue, SW, Renton, WA 98055; telephone (425) 227–2589 or fax (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

In response to the White House Commission on Aviation Safety and Security, the FAA formed the Aging Non-Structural Systems Study Team, which developed the FAA's approach to improving the management of aging wire systems. To assist in fulfilling the actions specified in the Aging Non-Structural Systems Plan, we have established an Aging Transport Systems Rulemaking Advisory Committee (ATSRAC) to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on airplane system safety issues like aging wire systems. The ATSRAC was initially tasked in 1998 with five tasks, which encompassed collecting data on aging wiring systems through airplane inspections, reviewing airplane manufacturer's service information, reviewing operators maintenance programs, and providing the FAA with recommendations to enhance the safety of these systems.

It should be noted that the results and recommendations from the initial taskings indicate that problems associated with systems on aging airplanes are not completely related to the degradation over time of wire systems. Inadequate installation and maintenance practices can lead to what is commonly referred to as an "aging system" problem. As such, the scope of the Committee is not limited solely to age-related issues, but includes improving the continued airworthiness of airplane systems, and in particular wire systems.

This notice informs the public of four new tasks assigned to and accepted by ATSRAC. These new tasks are intended to facilitate implementation of earlier recommendations of ATSRAC. The ATSRAC has chosen to establish harmonization working groups (HWG) to provide technical support in developing its recommendations to the Federal Aviation Administration. The HWG's will establish working methods to ensure coordination among the four groups and coordination with working groups established by the Aviation Rulemaking Advisory Committee. This coordination is required to ensure efficient use of resources, continuity in related decisions, and to reduce duplication of efforts. The new tasks and harmonization working groups follow:

I. Wire System Certification Requirements Harmonization Working Group

This group should be comprised of representatives and experts from type certificate and supplemental type certificate holders, operators, and regulatory authorities.

- Review all 14 CFR part 25 and JAR 25 requirements and ATSRAC and

ARAC recommendations related to wiring systems.

• Submit recommendations consolidating existing paragraphs and creating a new section dedicated to wire system requirements.

• Identify design and certification requirements for a new wire system rule that would account for aging effects.

• Identify requirements to conduct wire system safety assessments. Review § 25.1309, AC 25.1309–1A (or latest revision), corresponding JAR–25 material, and related ARAC recommendations and recommend, if appropriate, particular methods of compliance with § 25.1309 that should be mandated in a new wire system rule.

• Review existing FAA and JAA guidance, related ATSRAC and ARAC recommendations, and industry documentation and guidance for wire separation requirements.

• Recommend, if appropriate, a comprehensive wire separation regulation (in addition to 25.1353).

• Recommend requirements for special identification of wire and/or wire bundles based on the airplane level of effect of failures of systems contained in a wire bundle.

• Review and revise, as appropriate, existing advisory material, guidance and policies and related ARAC recommendations on design and installation of wiring systems, in consideration of aging effects on wiring noted in previous recommendations submitted by ATSRAC.

II. Standard Wire Practice Manual (SWPM) Harmonization Working Group

The composition of this working group should include technical representatives from the Air Transport Association, operators [specify type, i.e. repair station, air carrier, etc.], aircraft and component manufacturers, and regulatory authorities.

• Define the standard format and content of an SWPM in consideration of ATSRAC recommendations on the SWPM.

• Recommend, as appropriate, changes to existing SWPM's required by airline and repair station programs.

III. Enhanced Training Program for Wire Systems Harmonization Working Group

The composition of this working group should include technical expertise from air carrier operators, repair stations, other operators of transport category aircraft, regulatory authorities. Specific expertise is needed in the areas of training program development, wiring, and avionics maintenance.

• Develop and recommend a wire system training program that could be incorporated into an FAA advisory circular and JAA advisory material. The recommendation must consider training requirements that address all specific issues contained in ATSRAC's recommendation concerning Enhanced Maintenance Criteria for Systems.

• Identify and recommend SWPM minimum recurrent training requirements for maintenance technicians with particular focus on aging and degradation of wiring systems.

IV. Enhanced Maintenance Criteria for Systems Harmonization Working Group

The composition of this working group should include technical expertise in wiring/avionics maintenance, maintenance program development, and use of Instructions for Continued Airworthiness.

• Develop recommendations for enhanced maintenance criteria for systems in consideration of the elements of previous recommendations in the ATSRAC, including the enhanced zonal analysis program. The recommended program must consider related conclusions and recommendations from ATSRAC's Intrusive Inspection Report. The recommendations will form the basis for an FAA advisory circular and JAA Advisory Circular Joint (ACJ) directed toward part 25 transport category aircraft currently being used in part(s) 91, 121, 125, and 129 operations.

• Review recommendations from ATSRAC's report concerning Maintenance Practices, particularly the "zonal analysis procedure" methodology.

• Provide certain information that will allow development of regulatory text for a Special Federal Aviation regulation (SFAR) for Performance of the Enhanced Zonal Analysis Procedure (EZAP) applicable to type certificate holders and supplemental type certificate holders who install wire bundles or significantly affect the installation of existing wiring. Recommendations should include timelines for aircraft type design holders to complete their application for the EZAP logic for each aircraft.

• Recommend wire system data for inclusion in Appendix H to part 25, Instructions for Continued Airworthiness.

ATSRAC Acceptance of Taskings

ATSRAC has accepted these four taskings and has agreed to provide the FAA with its final recommendations by August 2002. The tasking statements in this notice are a summary of the four taskings that ATSRAC accepted at the April 25, 2001 ATSRAC meeting in Washington, DC. The Committee has chosen to assign the tasks to four separate harmonization working groups. These working groups will serve as staff to the ATSRAC to assist the Committee in writing technical reports that will allow the FAA to complete its development of associated rulemaking language and advisory material. Working group documents will be reviewed, deliberated, and approved by ATSRAC. If ATSRAC accepts the working groups' documents, they will be forwarded to the FAA as ATSRAC recommendations.

The working groups should coordinate with other working groups, organizations, and specialists as appropriate. The working groups will identify to ATSRAC the need for additional new working groups when existing groups do not have the appropriate expertise to address certain tasks.

Working Group Activity

The working groups are expected to comply with the procedures adopted by ATSRAC. As part of the procedures, each working group is expected to:

1. Recommend a work plan for completion of the task, including the rationale supporting such a plan, for consideration by the ATSRAC following the establishment and selection of the working group.

2. Give a detailed conceptual presentation of proposed recommendations prior to proceeding with the work stated in item 3 below.

3. Draft a report and/or any other collateral documents the working group determines to be appropriate and submit them to the ATSRAC for review and approval by July 2002.

4. Provide a status report at each meeting of the ATSRAC.

Participation in the Working Group

Each of the working groups will be composed of experts having an interest in the assigned task. Participants of the working groups should be prepared to devote a significant portion of their time to the ATSRAC task through August 2002. A working group member need not be a representative or a member of the ATSRAC.

An individual who has expertise in the subject matter and wishes to become a member of one of the working groups should contact: Charles Huber (see **FOR FURTHER INFORMATION CONTACT** section), expressing that desire, describing his or her interest in the tasks, and stating the expertise he or she would bring to the working group. All requests to

participate must be received no later than June 28, 2001. The requests will be reviewed by the ATSRAC Chair, the Executive Director, and the working group Chair, and the individuals will be advised whether or not requests can be accommodated.

The Secretary of Transportation has determined that the formation and use of ATSRAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of the ATSRAC will be open to the public. Meetings of the individual working groups will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on May 23, 2001.

Anthony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. 01–13438 Filed 5–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Air Carrier and General Aviation Maintenance Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public of a meeting of the FAA Aviation Rulemaking Advisory Committee to discuss Air Carrier and General Aviation Maintenance Issues.

DATES: The meeting will be held on June 21, 2001, from 9 a.m. to 12 p.m. Arrange for presentations by June 8, 2001.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 800 Independence Ave. SW., room 813, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Carolina E. Forrester, Federal Aviation Administration, Office of Rulemaking (ARM–206), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9690; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to § 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on June 21, 2001, from 9 a.m. to 12 p.m. at the Federal Aviation Administration, 800 Independence Ave. SW., room 813, Washington, DC 20591. The agenda will include:

1. Opening remarks;
2. Committee Administration;
3. General Aviation Maintenance Working Group presentation of working group's technical report and Advisory Circular;
4. Clarification of Major/Minor Repairs or Alterations Working Group presentation of working group's technical report and Advisory Circular;
5. Discussion of Working Groups continued activities; and
6. A discussion of future meeting dates, locations, activities, and plans.

Attendance is open to the interested public, but will be limited to the space available. The FAA will arrange teleconference capability for individuals wishing to participate by teleconference if we receive notification before June 8, 2001. Arrangements to participate by teleconference can be made by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Callers outside the Washington metropolitan area will be responsible for paying long distance charges.

The public must make arrangements by May 25, 2001, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Assistant Executive Director, or by bringing the copies to the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on May 22, 2001.

Angela Elgee,

Assistant Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 01–13315 Filed 5–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 01–05–C00–OTH To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at North Bend Municipal Airport, Submitted by the City of North Bend, North Bend Municipal Airport, North Bend, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at North Bend Municipal Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 28, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. J. Wade Bryant, Manager,; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250, Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gary LeTellier, Airport Manager, at the following address: City of North Bend/ Port Of Coos Bay, 2348 Colorado Avenue, North Bend, Oregon 97459.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to North Bend Municipal Airport, under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Lee-Pang, (425) 227–2654, Seattle Airports District Office (SEA–ADO); Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250, Renton, Washington 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 01–05–C–00–OTH to impose and use PFC revenue at North Bend Municipal Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 21, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by City of North Bend, North Bend Municipal Airport, North Bend, Oregon, was substantially complete within the requirements of section

158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 18, 2001.

The followings a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: November 1, 2001.

Proposed charge expiration date: September 1, 2008.

Total requested for use approval: $397,500.

Brief description of proposed project: Runway 13/31 Safety Area Improvements; Rehabilitation of Runway 13/31; Acquisition of ARFF Vehicle; Master Plan; Rehabilitation of Runway 4/22.

Class or classes or air carriers which the public agency has requested not be required to collect PFC's: Nonscheduled air taxi/commercial operators utilizing aircraft having seating capacity of less than 20 passengers.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the North Bend Municipal Airport.

Issued in Renton, Washington on May 21, 2001.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 01–13439 Filed 5–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Etowah County, Alabama

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Etowah County, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. Joe D. Wilkerson, Division Administrator, Federal Highway Administration, 500 Eastern Boulevard, Suite 200, Montgomery, Alabama 36117, Telephone: (334) 223–7370.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the State of Alabama Department of Transportation, will prepare an Environmental Impact Statement (EIS) for Alabama Project NHF–PE 94 (2). The proposal is to extend Interstate Highway 759 (I–759) from George Wallace Drive to an interchange with U.S. Highway 431 and US-Highway 278 in the city of Gadsden, Alabama. The project will be a multi-land freeway on new location.

The proposal will allow traffic from I–759 to flow through the City of Gadsden without merging with local street traffic.

Alternatives under consideration include (1) alternate route locations, (2) a no action alternative, and (3) postponing the action.

A Public Involvement Meeting will be held in Gadsden to acquire local input on the proposed project. Written comments will be solicited from Federal, State and local agencies, officials and individuals who may have an interest in the proposal. A formal Scoping Meeting will not be held.

To ensure that the full range of issues related to this proposed action is 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 FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The provisions of OMB Circular No. A–95 regarding state and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Joe D. Wilkerson,

Division Administrator, Montgomery, Alabama.

[FR Doc. 01–13324 Filed 5–25–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–209274–85]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking and temporary regulation, REG–209274–85 (TD 8033), Tax Exempt Entity Leasing (§ 1.168).

DATES: Written comments should be received on or before July 30, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Tax-Exempt Entity Leasing.

OMB Number: 1545–0923.

Regulation Project Number: REG–209274–85.

Abstract: These regulations provide guidance to persons executing lease agreements involving tax-exempt entities under section 168(h) of the Internal Revenue Code. The regulations are necessary to implement Congressionally enacted legislation and elections for certain previously tax-exempt organizations and certain tax-exempt controlled entities.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of OMB approval.

Affected Public: Not-for-profit institutions and state, local or tribal governments.

Estimated Number of Respondents: 4,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 2,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal

revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 18, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–13401 Filed 5–25–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2001–37

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2001–37, Extraterritorial Income Exclusion Elections.

DATES: Written comments should be received on or before July 30, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Extraterritorial Income Exclusion Elections

OMB Number: 1545–1731.

Revenue Procedure Number: Revenue Procedure 2001–37.

Abstract: Revenue Procedure 2001–37 provides guidance for implementing the elections (and revocation of such elections) established under the "FSC Repeal and Extraterritorial Income Exclusion Act of 2000".

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 56.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 19.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 21, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–13402 Filed 5–25–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–106177–97]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing proposed regulation, REG–106177–97, Qualified State Tuition Programs.

DATES: Written comments should be received on or before July 30, 2001, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Qualified State Tuition Programs.

OMB Number: 1545–1614.

Regulation Project Number: REG–106177–97.

Abstract: This regulation affects qualified State tuition programs (QSTPs) established under Code section 529 and individuals receiving distributions from QSTPs. The information required by the regulation will be used by the IRS and

individuals receiving QSTP distributions to verify compliance with section 529 and to determine that the taxable amount of the distribution has been computed correctly.

Current Actions: There is no change to this existing regulation.

Type of review: Extension of OMB approval.

Affected Public: State, local or tribal governments and individuals or households.

Estimated Number of Respondents: 20,051.

Estimated Time Per Respondent: 35 hrs., 10 minutes.

Estimated Total Annual Burden Hours: 705,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 21, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–13403 Filed 5–25–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0080]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to initiate and document expenditures, claim reimbursement as well as make funeral arrangements and authorize burial benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 30, 2001.

ADDRESSES: Submit written comments on the collection of information to Ann Bickoff, Veterans Health Administration (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *ann.bickoff@mail.va.gov*. Please refer to "OMB Control No. 2900–0080" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann Bickoff at (202) 273–8310.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Claim for Payment of Cost of Unauthorized Medical Services, VA Form 10–583.

b. Funeral Arrangements, VA Form 10–2065.

c. Authority and Invoice for Travel by Ambulance or Other Hired Vehicle, VA Form 10–2511.

d. Authorization and Invoice for Medical and Hospital Services.

OMB Control Number: 2900–0080.

Type of Review: Revision of a currently approved collection.

Abstract:

a. VA Form 10–583 is used by health care providers as a claim for the cost of unauthorized hospital care and by veterans as a claim for reimbursement of such cost.

b. VA Form 10–0265 is completed by clerical staff upon the death of a veteran in a VA medical care facility. It is used primarily in VA medical facilities and serves as an official record of the Funeral Director to which the person making funeral arrangements wishes the remains to be released. It is also used as a control document when VA is requested to arrange for the transportation of the deceased from the place of death to the place of burial, and/or when burial is requested in a National Cemetery.

c. VA Form 10–7078 is used by administrative personnel in VA medical facilities to authorize expenditures from the medical care account and process payment of medical and hospital services provided by other than Federal health providers to VA beneficiaries.

d. VA Form 10–2511 is used by administrative personnel in VA facilities to authorize expenditures from the beneficiary travel account. It is also used to process payment for ambulance or other hired vehicular forms of transportation for eligible veterans to and from VA health care facilities for examination, treatment or care.

Affected Public: Business or other for profit, Individuals or households, and Not for profit institutions.

Estimated Total Annual Burden: 32,742 hours.

a. VA Form 10–583—17,188.

b. VA Form 10–2065—3,071.

c. VA Form 10–2511—4,083.

d. VA Form 10–7078—8,400.

Estimated Average Burden Per Respondent:

a. VA Form 10–583—15 minutes.

b. VA Form 10–2065—5 minutes.

c. VA Form 10–2511—2 minutes.

d. VA Form 10–7078—2 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 480,100.

a. VA Form 10–583—68,750 hours.
b. VA Form 10–2065—36,850 hours.
c. VA Form 10–2511—122,500 hours.
d. VA Form 10–7078—252,000 hours.

Dated: May 18, 2001.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 01–13423 Filed 5–25–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0012]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 28, 2001.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0012."

SUPPLEMENTARY INFORMATION:

Title: Application for Cash Surrender Government Life Insurance, VA Form 29–1546, and Application for Policy Loan Government Life Insurance, VA Form 29–1546–1.

OMB Control Number: 2900–0012.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Abstract: The form is used by the insured to apply for cash surrender value or policy loan on his/her Government Life Insurance. The information is used by VA to process the insurer's request for a loan or cash surrender.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 15, 2001 at pages 10564–10565.

Affected Public: Individuals or households.

Estimated Annual Burden: 4,939 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 29,636.

Send comments and recommendations concerning any aspect of the information collection to VA's Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to "OMB Control No. 2900–0012" in any correspondence.

Dated: Apri 30, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–13422 Filed 5–25–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of System of Records "Spinal Cord Dysfunction-Registry—VA."

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their system of records. Notice is hereby given that the Department of Veterans Affairs (VA) is establishing a new system of records entitled "Spinal Cord Dysfunction—Registry (SCD–R)–VA" (108VA11S).

DATES: Comments on the establishment of this new system of records must be received no later than June 28, 2001. If no public comment is received, the new system will become effective June 28, 2001.

ADDRESSES: Written comments concerning the proposed new system of records may be submitted to the Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION, PLEASE CONTACT: Veterans Health Administration (VHA) Privacy Act Officer, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (727) 320–1839.

SUPPLEMENTARY INFORMATION:

1. Description of the Proposed System of Records

The Spinal Cord Dysfunction (SCD)—Registry provides a registry of veterans with spinal cord injury and disorders (SCI&D). This registry contains pertinent information on veterans with SCI&D and enables better coordination of care among VHA staff. The purpose of the registry is to assist clinicians, administrators, and researchers in identifying and tracking services for veterans with spinal cord dysfunction resulting from trauma or diseases. The SCD—Registry can also facilitate clinical, administrative, and research reports for medical center use. Local Veterans Health Information System and Technology Architecture (VistA) SCD—Registries provide aggregate data to the National SCD—Registry database at the Austin Automation Center (AAC). This centralized AAC registry is used to provide a VA-wide review of veteran demographics and clinical aspects of injury and disorders for administrative and research purposes.

These records contain identifying information including name, social security number (SSN), date of birth, unique record identifiers, and registration date. SCD—Registry registration information may include registration status, neurologic level of injury, etiology, date of onset, type of cause, completeness of injury, and annual evaluation dates offered and received. Each local medical center facility has a VistA based SCD—Registry software package that interactively functions with other clinical VistA based software. The SCD—Registry program and other programs at the respective facilities automatically flag records or events for transmission based upon functionality requirements. Data transmissions between VA health care facilities and the VA databases housed at the AAC are accomplished using the

Department's wide area network. The SCD—Registry Outcomes File has data fields for storing measures of impairment, activity, social role participation, and satisfaction with life. A registrant may have multiple entries in this file.

VHA's Health Services Research and Development Service (HSR&D) and the congressionally-chartered Paralyzed Veterans of America (PVA) originally developed the SCD—Registry. However, these records are maintained exclusively by VA. Registration may be completed by VA staff entering patients diagnosed with spinal cord injury and disorders applying for or receiving VA health care services.

Electronic and paper records are maintained at the AAC, Department of Veterans Affairs, 1615 Woodward Street, Austin, Texas 78772. They are also maintained at VA health care facilities listed in VA Appendix 1 of the biennial publication of VA's Systems of Records. Records will be maintained and disposed of in accordance with record disposition authority approved by the Archivist of the United States. Depending on the record medium, records are destroyed by either shredding or degaussing.

An individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to determine the contents of such record, should submit a written request or apply in person to the last VA facility where medical care was provided, or submit a written request to the Chief Consultant, Spinal Cord Injury and Disorders Strategic Healthcare Group (128N), 1660 South Columbian Way, Seattle, Washington 98108–1597. Inquiries should include the veteran's name, social security number, and return address.

2. Proposed Routine Use Disclosures of Data in the System

VA is proposing to establish the routine use disclosures of information which will be maintained in the system as specified in the "Routine Uses of Records Maintained in the System" section of this notice below. There is no additional privacy impact anticipated from this system of records as part of the broader VHA record of clinical and health care information. Information maintained in the system is limited to that which is relevant and necessary for the planning and delivery of quality patient care services. Access is strictly limited to VA personnel with a bona fide need for the information in the performance of their duties. No persons outside of the "need-to-know" access criteria will be given access capabilities. Privacy Act access requirements will be adhered to for all situations.

Release of information from these records will be made only in accordance with the provisions of the Privacy Act of 1974 for investigative, judicial, and administrative uses. The Privacy Act permits disclosure of information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which the information was collected. VA has determined that release of information for these purposes is a necessary and proper use of information and that specific routine uses for transfer of this information are appropriate for:

(a) Disclosure to a member of Congress or staff person, acting for the member, when they request the record on behalf of, and at the written request of that individual.

(b) Disclosure, as deemed necessary and proper to approved agents/attorneys aiding beneficiaries in the preparation/presentation of their cases during verification and/or due process procedures or in the presentation/prosecution of claims under laws administered by VA.

(c) Disclosure of name(s) and address(es) of present or former members of the armed services and/or their dependents to: (i) Any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under Title 38, and (ii) any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety who has made a written request that such name(s) or address(es) be provided for a purpose authorized by law; provided, further, that the record(s) will not be used for any purpose other than that stated in the request and that the organization, agency or instrumentality is aware of the penalty provision of 38 U.S.C. 5701(f).

(d) Disclosure to the National Archives and Records Administration (NARA) in records management inspections conducted under authority of Title 44 U.S.C.

(e) Disclosure for research purposes determined to be necessary and proper, to epidemiological and other research facilities approved by the Under Secretary for Health.

(f) Disclosure to conduct Federal research necessary to accomplish a statutory purpose of an agency, at the written request of the head of the agency, or designee of the head of that agency.

(g) Disclosure indicating a violation or potential violation of law to the appropriate agency charged with the responsibility of investigating or prosecuting such violation.

(h) Disclosure for program review purposes and the seeking of accreditation and/or certification.

(i) Disclosure in a proceeding before a court, adjudicative body, or other administrative body before which the Agency is authorized to appear.

(j) Disclosure to individuals, organizations, private or public agencies, etc., with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

(k) Disclosed to the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

3. Compatibility of the Proposed Routine Uses

The Privacy Act permits VA to disclose information about individuals without their prior written consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which the information was collected. In all of the routine use disclosures described, the recipient of the information will use the information in connection with a matter relating to one of VA's programs, to provide a benefit to VA, or to provide disclosure as required by law.

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: May 9, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

108VA11S

SYSTEM NAME:

Spinal Cord Dysfunction—Registry (SCD–R)–VA.

SYSTEM LOCATION:

All electronic and paper records are maintained at the Austin Automation Center (AAC), Department of Veterans

Affairs (VA), 1615 Woodward Street, Austin, Texas 78772, and at VA health care facilities listed in VA Appendix 1 of the biennial publication of VA's Systems of Records. Each local medical center facility has a Veterans Health Information System and Technology Architecture (VistA)-based SCD-Registry software package. Data transmissions between VA health care facilities and the VA databases housed at the AAC are accomplished using the Department's wide area network.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Veterans identified with spinal cord injury and disorders that have applied for VA health care services are included in the system. Occasionally, non-veterans who have received VA health care or rehabilitation services under sharing agreements, contracted care, or humanitarian emergencies will also have information recorded in the Spinal Cord Dysfunction (SCD)-Registry.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain identifying information including name, social security number, date of birth, and registration date in the SCD-Registry. SCD-Registry registration information may include information about whether individuals are receiving services from VA's spinal cord system of care, neurologic level of injury, etiology, date of onset, type of cause, completeness of injury, and annual evaluation dates offered and received. The Outcomes File of the SCD-Registry has data fields for storing measures of impairment, activity, social role participation, and satisfaction with life. A registrant may have multiple entries in this file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, Sections 501 and 7304.

PURPOSE(S):

The SCD-Registry provides a registry of veterans with spinal cord injury and disorders (SCI&D). This registry contains pertinent information on veterans with SCI&D and enables better coordination of care among VHA staff. The purpose of the registry is to assist clinicians, administrators, and researchers in identifying and tracking services for veterans with spinal cord dysfunction resulting from trauma or diseases. The SCD-Registry can also facilitate clinical, administrative, and research reports for medical center use. Local VistA SCD-Registries provide data extracts to the National SCD-Registry database at the AAC. This centralized AAC registry is used to provide a VA-wide review of veteran demographics and clinical aspects of injuries and disorders.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person, acting for the member, when they request the record on behalf of, and at the written request of that individual.

2. Disclosure of records covered by this system, as deemed necessary and proper to named individuals serving as accredited veterans service organization representatives and other individuals named as approved agents or attorneys for a documented purpose and period of time. These agents/attorneys must be aiding beneficiaries in the preparation/presentation of their cases during verification and/or due process procedures or in the presentation/prosecution of claims under laws administered by VA.

3. A record containing the name(s) and address(es) of present or former members of the armed services and/or their dependents may be released from this system of records under certain circumstances:

a. To any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under Title 38, and

b. To any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name(s) or address (es) be provided for a purpose authorized by law; provided, further, that the record(s) will not be used for any purpose other than that stated in the request and that the organization, agency or instrumentality is aware of the penalty provision of 38 U.S.C. 5701(f).

4. Disclosure may be made to the National Archives and Records Administration (NARA) in records management inspections conducted under authority of Title 44 United States Code.

5. Disclosure of information, excluding name and address (unless name and address is furnished by the requester) for research purposes determined to be necessary and proper, to epidemiological and other research facilities approved by the Under Secretary for Health.

6. In order to conduct Federal research necessary to accomplish a statutory purpose of an agency, at the written request of the head of the agency, or designee of the head of that agency, the name(s) and address(es) of present or former personnel or the armed services and/or their dependents may be disclosed;

a. To a Federal department or agency; or

b. Directly to a contractor of a Federal department or agency. When a disclosure of this information is to be made directly to the contractor, VA may impose applicable conditions on the department, agency, and/or contractor to insure the appropriateness of the disclosure to the contractor.

7. In the event that a record maintained by VA 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, information may be disclosed at VA's initiative 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 statute or rule, regulation or order issued pursuant thereto.

8. For program review purposes and the seeking of accreditation and/or certification, disclosure may be made to survey teams of the Rehabilitation Accreditation Commission, Joint Commission on Accreditation of Healthcare Organizations (JCAHO), College of American Pathologists, American Association of Blood Banks, and similar national accreditation agencies or boards with whom VA has a contract or agreement to conduct such reviews but only to the extent that the information is necessary and relevant to the review.

9. Records from this system of records may be disclosed in a proceeding before a court, adjudicative body, or other administrative body when the Agency, or any Agency component or employee (in his or her official capacity as a VA employee), is a party to litigation; when the Agency determines that litigation is likely to affect the Agency, any of its components or employees, or the United States has an interest in the litigation, and such records are deemed to be relevant and necessary to the legal proceedings; provided, however, that the disclosure is compatible with the purpose for which the records were collected.

10. Disclosure of relevant information may be made to individuals, organizations, private or public agencies, etc., with whom VA has a

contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

11. Relevant information may be disclosed to the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes/disks and optical discs. Electronic data are maintained on Direct Access Storage Devices at the AAC. The AAC stores registry tapes for disaster backup at a secure, off-site location.

RETRIEVABILITY:

Records are indexed by name of veteran, social security number, and unique patient identifiers.

SAFEGUARDS:

1. Data transmissions between VA health care facilities and the VA databases housed at the AAC are accomplished using the Department's wide area network. The SCD-Registry program and other programs at the respective facilities automatically flag records or events for transmission based upon functionality requirements. VA health care facilities control access to data by using VHA's VistA software modules. The Department's Telecommunications Support Service has oversight responsibility for planning, security, and management of the wide area network.

2. Access to records at VA health care facilities is only authorized to VA personnel on a "need-to-know" basis. Records are maintained in staffed rooms during working hours. During non-working hours, there is limited access to the building with visitor control by security personnel. Access to the AAC is generally restricted to AAC staff, VA Headquarters employees, custodial personnel, Federal Protective Service and authorized operational personnel through electronic locking devices. All other persons gaining access to the computer rooms are escorted. Backup records stored off-site for both the AAC and VA Headquarters are safeguarded in secured storage areas.

3. Strict control measures are enforced to ensure that access to and disclosure from all records including electronic files and veteran-specific data elements are limited to VHA employees whose official duties warrant access to those files. The automated record system recognizes authorized users by keyboard entry of unique passwords, access, and verify codes.

RETENTION AND DISPOSAL:

Records will be maintained and disposed of in accordance with record disposition authority approved by the Archivist of the United States. Depending on the record medium, records are destroyed by either shredding or degaussing. Optical disks or other electronic media are deleted when no longer required for official duties.

SYSTEM MANAGER(S) AND ADDRESS:

Spinal Cord Dysfunction—Registry Coordinator (128N), 3350 La Jolla Village Drive, San Diego, California 92161. Officials responsible for policies and procedures: Chief Consultant, Spinal Cord Injury and Disorders Strategic Healthcare Group (128N), 1660 South Columbian Way, Seattle, Washington 98108–1597.

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to determine the contents of such record, should submit a written request or apply in person to the last VA facility where medical care was provided or submit a written request to the Chief Consultant, Spinal Cord Injury and Disorders Strategic Healthcare Group (128N), 1660 South Columbian Way, Seattle, Washington 98108–1597. Inquiries should include the veteran's name, social security number and return address.

RECORD ACCESS PROCEDURES:

An individual who seeks access to records maintained under his or her name may write or visit the nearest VA facility or write to the Chief Consultant, Spinal Cord Injury and Disorders Strategic Healthcare Group (128N), 1660 South Columbian Way, Seattle, Washington 98108–1597

CONTESTING RECORDS PROCEDURES:

(See Record Access Procedures.)

RECORD SOURCE CATEGORIES:

Various automated record systems providing clinical and managerial support to VA health care facilities, the veteran, family members, accredited representatives or friends, "Patient Medical Records"—VA (24VA136) system of records.

[FR Doc. 01–13424 Filed 5–25–01; 8:45 am]
BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 66, No. 103
Tuesday, May 29, 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

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 010510119-1119-01; I.D. 050901B]

RIN 0648-AP27

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan

Correction

In rule document 01–12326 beginning on page 27042 in the issue of Wednesday, May 16, 2001, make the following correction:

On page 27042 in the third cloumn, in the "DATES" section, in the third line, "through May 30, 2001" should read "through May 28, 2001".

[FR Doc. C1–12326 Filed 5–25–01; 8:45 am]

BILLING CODE 1505–01–D

Reader Aids

Federal Register

Vol. 66, No. 103

Tuesday, May 29, 2001

CUSTOMER SERVICE AND INFORMATION

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Executive orders and proclamations	523–5227
The United States Government Manual	523–5227
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TTY for the deaf-and-hard-of-hearing	523–5229

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FEDERAL REGISTER PAGES AND DATE, MAY

21631–21850 1
21851–22106 2
22107–22424 3
22425–22898 4
22899–23134 7
23135–23532 8
23533–23830 9
23831–24042 10
24043–24262 11
24263–26782 14
26783–27012 15
27013–27442 16
27443–27590 17
27591–27824 18
27825–28048 21
28049–28358 22
28359–28638 23
28639–28830 24
28831–29008 25
29009–29214 29

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7430 22103
7431 22423
7432 23533
7433 23535
7434 23831
7435 24043
7436 24045
7437 24046
7438 28045
7439 28047
7440 28049
7441 28353
7442 28639
7443 28825
Executive Orders:
12808 (See Notice of May 24, 2001) 29007
12810 (See Notice of May 24, 2001) 29007
12831 (See Notice of May 24, 2001) 29007
12846 (See Notice of May 24, 2001) 29007
12934 (See Notice of May 24, 2001) 29007
13047 (Continued by Notice of May 15, 2001) 27443
13088 (See Notice of May 24, 2001) 29007
13121 (See Notice of May 24, 2001) 29007
13183 (Amended by EO 13209) 22105
13192 (See Notice of May 24, 2001) 29007
13194 (See EO 13213) 28829
13209 22105
13210 22895
13211 28355
13212 28357
13213 28829
Administrative Orders:
Notices:
May 15, 2001 27443
Notice of May 24, 2001 29007
Presidential Determinations:
No. 96–7 (See Notice of May 24, 2001) 29007
No. 2001-14 27825
No. 2001-15 27827

5 CFR

1600 22088
1601 22092
Proposed Rules:
1604 21693

7 CFR

29 28359
930 21836
1240 21824
1260 26783
1309 23833
1410 22098
1773 ..... 27829, 27833
1779 23135
1780 23135
1942 27013
1980 23135
Proposed Rules:
29 21888
920 26810
929 24291
930 26813
80 27045
981 21888
1773 27912

8 CFR

245 27445

9 CFR

94 22425
362 ..... 21631, 22899
381 ..... 21631, 22899

10 CFR

9 22907
70 24049
72 ..... 23537, 27449, 28641
431 27853
490 21851
1044 23833
Proposed Rules:
1 27045
2 27045
50 ..... 22134, 27045
51 27045
52 27045
54 27045
60 27045
70 27045
73 27045
76 27045
110 27045
600 23197

11 CFR

100 23537
109 23537
110 23537
Proposed Rules:
100 23628
104 23628
109 23628

12 CFR

8 23151
201 29009

250 .....24220, 24226, 24229
552.....23153
611.....26785
613.....28641
615.....26785
650.....28361
918.....24263

Proposed Rules:
Ch. II.....27912
223.....24186
552.....23198
951.....23864

13 CFR

108.....28602
119.....29010

14 CFR

21.....23086
25 .....22426, 22428, 23086, 26972, 27390
27.....23538
29.....23538
39 .....21851, 21852, 21853, 21855, 21859, 22431, 22432, 22908, 22910, 22913, 22915, 23155, 23538, 23541, 23834, 23836, 23838, 23840, 24049, 26785, 26787, 27014, 27017, 27449, 27591, 27592, 27854, 28361, 28364, 28643, 28646, 28648, 28649
65.....23543
71 .....21639, 23557, 23558, 23560, 28368, 29017, 29018, 29019
91.....23086, 23543
97 .....22435, 22437, 27450, 27452
105.....23543
119.....23543
121 .....23086, 27548, 28036, 28369
125.....23086
129.....23086
135.....28036
382.....22107

Proposed Rules:
23.....23199
25 .....26942, 26948, 26956, 26964, 27582
39 .....21697, 21699, 21700, 21703, 21892, 21893, 21896, 21898, 22478, 22479, 22482, 22484, 22486, 23632, 24304, 24306, 26815, 26817, 26819, 27475, 27914, 28133, 28402, 28850
71 .....22489, 22490, 29056, 29057, 29058

15 CFR

301.....28831
902.....21639, 24052
744.....24264

Proposed Rules:
303.....28404
922.....26822

16 CFR

305.....27856
801.....23561
802.....23561
803.....23561

Proposed Rules:
1700.....22491

17 CFR

30.....27859
160.....24060, 24183
200.....27760
240.....21648, 27760
241.....22916
450.....28654

Proposed Rules:
3.....27476
39.....24308
41.....27560
170.....27476
202.....26978
240.....26978, 27560
249.....26978

19 CFR

102.....21660, 23981
132.....21664, 27453
163.....21664, 27453

Proposed Rules:
4.....21705
24.....21705
101.....21705

20 CFR

1.....28948
30.....28948
217.....27454
404.....28835

21 CFR

173.....22921, 27020
510 .....22116, 22118, 23588
520 .....22116, 23588, 29019
522 .....22116, 22118, 23588
524.....22116
529.....22116
556.....23589
558 .....21861, 22116, 22118, 23588, 27022, 29020
803.....23155
864.....27023
876.....27023
888.....28051

Proposed Rules:
333.....29059

22 CFR

Proposed Rules:
62.....27046
864.....23634

23 CFR

630.....23845

Proposed Rules
655.....27480
710.....23636

24 CFR

5.....28776
200.....28776
247.....28776
880.....28776
882.....28776
884.....28776
891.....28776
960.....28776
966.....28776
982.....28776

Proposed Rules
888.....23770

25 CFR

11.....22118

Proposed Rules:
309.....27915

26 CFR

1.....22286
31.....28370
48.....27597

Proposed Rules:
1 .....21844, 23868, 26823, 28407, 28408
31.....28408
53.....26824
301 .....23868, 26824, 28408

27 CFR

9.....23589, 26789
70.....29021
250.....21667

Proposed Rules:
9.....21707
16.....28135

28 CFR

25.....22898
Ch. IX.....27861
901.....27861

29 CFR

2202.....21670
4022.....26791
4044.....26791

30 CFR

57.....27863
72.....27864
208.....28655
870.....28634
925.....23593
934.....27455
936.....23605

Proposed Rules:
904.....23868
926.....28680
948.....28682

32 CFR

989.....26793

33 CFR

100.....23849, 28370
117 .....21862, 23157, 23159, 23161, 23162, 23163, 23608, 23610, 26793, 27025, 27866, 27867
164.....21862
165 .....21864, 21866, 21868, 21869, 22121, 23163, 27868, 28370, 28372, 28374, 28657
173.....21671

Proposed Rules:
117 .....23638, 23640, 27920
140.....23871
151.....22137
160 .....21710, 27216, 28774
164.....21899
165.....21715, 28851
175.....21717
334 .....28818, 28819, 28820

36 CFR

219.....27552
1220.....27026
1228.....27026
1232.....27026
1234.....27026
1236.....27026

Proposed Rules:
219.....27555

37 CFR

1.....28053
202.....24267

Proposed Rules:
1.....23642
2.....23642
201.....22139

38 CFR

1.....27598
3 .....21871, 23166, 23763
17.....23326

Proposed Rules:
36.....23873

39 CFR

111.....28659, 29031

Proposed Rules:
111.....21720

40 CFR

9.....28341
52 .....21675, 21875, 22123, 22125, 22922, 22924, 23612, 23615, 23849, 26914, 27028, 27459, 27871, 27875, 28054, 28056, 28058, 28059, 28063, 28666, 28836
62 .....22927, 23851, 28375
63 .....24268, 24270, 27032, 27876, 28840
70.....24061, 27008
80.....28808
81 .....22125, 27034, 27036
82.....28370
136.....26795
141 .....26795, 27215, 28341
142.....28341
143.....26795
180 .....22128, 22930, 24061, 27463, 28383, 28386, 28668
261 .....21877, 23617, 24272, 27266, 28066
266.....27218, 28066
268.....27266
270.....24270
272.....28397
300 .....28093, 28096, 28099, 28102, 28106
372.....24066
1611.....23853

Proposed Rules:
2.....24315
9.....28853
52 .....21721, 21727, 21901, 22140, 22141, 22970, 23645, 24074, 24075, 27047, 27051, 27482, 27483, 27616, 27920, 27921, 28137, 28138, 28685, 28872, 29064
62 .....22970, 23884, 28408
63.....27055
70.....24084
80.....28813
81 .....22141, 23646, 24075, 27055, 27058, 27616, 28872
82.....28408
122.....28853
123.....28853
124.....28853
125.....28853

144.....22971
146.....22971
258.....23652
260.....28240
261.....24085, 28240
262.....28240
263.....28240
264.....28240
265.....28240
271.....28240
300 .....28138, 28139, 28140, 28141

41 CFR

101–20.....23169
101–21.....23169
102–85.....23169
302–11.....23177

Proposed Rules:

101–9.....29067
102–192.....29067
Ch. 300.....22491
Ch. 304.....22491

42 CFR

416.....27598
441.....28110
482.....27598
483.....28110
485.....27598

Proposed Rules:

36.....27620
405.....22646
410.....23984
411.....23984
412.....22646
413.....22646, 23984
424.....23984
482.....23984
485.....22646
486.....22646
489.....23984

43 CFR

1820.....28672
3160.....24073
3200.....27040

44 CFR

64.....22936
65 .....22438, 24280, 24281
67.....24284
206.....22443

Proposed Rules:

62.....23200, 23874
67.....24315

45 CFR

46.....27599
270.....23854

46 CFR

10.....24183
15.....24183
205.....23860

Proposed Rules:

67.....21902
140.....26824
141.....26824
142.....26824
143.....26824
144.....26824
145.....26824
146.....26824
502.....27921

47 CFR

1.....28841
2.....26796, 27600
20.....22445
51.....26800
54.....22133
61.....27892, 28774
64.....22447, 28117
68 .....23625, 27600, 28841
73 .....21679, 21680, 21681, 22448, 22449, 22450, 23861, 26806, 26807, 26808, 27040, 27041, 27042, 28399, 28400
74.....29040
87.....26796

Proposed Rules:

Ch. I.....28410
1.....28686
2.....28686
54.....23204, 28718
61.....27927
73 .....21727, 21728, 22498, 22499, 26825, 26826, 27058, 27059, 28686, 28874
74.....28686
78.....28686

48 CFR

Ch. 1.....22082, 27406, 27417
2 .....22082, 27012, 27407, 27414, 27416
4.....27407
5.....27407
6.....27407
7.....27407
9.....27407
12.....27407
13.....27407
14.....27407
17.....27407
22.....27407
34.....27407
35.....27407
36 .....27407, 27414, 27416
37.....22082, 27012
39.....22084
52.....27416
1552.....28673
5433.....27474
5452.....27474

Proposed Rules:

9.....23134
14.....23134
15.....23134
31.....23134
52.....23134

49 CFR

1.....23180
27.....22107
40.....28400

Proposed Rules:

26.....23208
107.....22080
365.....22371, 27059
368.....22328
383.....22499
384.....22499
385.....22415, 27059
387.....22328, 27059
390.....22499
571.....28875
578.....27621

50 CFR

17 .....22938, 23181, 27901, 28125
23.....27601
216.....22133, 22450
222.....28842
223.....24287, 28842
224.....29046
229.....27042, 29213
600 .....22467, 28131, 28676, 28846
648 .....21639, 22473, 23182, 23625, 24052, 27043, 27615, 28846
660 .....22467, 23185, 28676
679 .....21691, 21886, 21887, 23196, 26808, 27043, 27908, 28132, 28679

Proposed Rules:

15.....29072
17 .....22141, 22983, 22994, 26827
216.....26828
226.....28141
600 .....24093, 28142, 28876
622.....22144, 28725
635.....22994
648.....28879
660 .....23660, 27623, 29074
679.....26828, 28883
697.....28726

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MAY 29, 2001

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Northeastern United States fisheries—
Atlantic mackerel, squid, and butterfish; published 5-30-01

COMMERCE DEPARTMENT
Patent and Trademark Office
Patent cases:
Patent business goals—
Biological material deposit, changes in time period to make if needed; published 4-27-01

ENVIRONMENTAL PROTECTION AGENCY
Air programs:
Fuels and fuel additives—
Hazardous air pollutants from mobile sources; emissions control; published 3-29-01
Air quality implementation plans; approval and promulgation; various States:
Texas; published 4-26-01

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
Arizona; published 5-1-01
Washington; published 5-1-01

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Animal drugs, feeds, and related products:
Lasalocid and bacitracin zinc; published 5-29-01
Oxytetracycline hydrochloride soluble powder; published 5-29-01

NUCLEAR REGULATORY COMMISSION
Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
Approved spent fuel storage casks; list additions; published 3-13-01

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; published 4-23-01
Boeing; published 4-23-01
Bombardier; published 4-23-01
Empresa Brasileira de Aeronautica, S.A. (EMBRAER); published 5-11-01

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Seat belt use:
Safety incentive grants; allocations based on State seat belt use rates; published 4-26-01

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Seat belt use:
Safety incentive grants; allocations based on State seat belt use rates; published 4-26-01

TRANSPORTATION DEPARTMENT
Research and Special Programs Administration
Pipeline safety:
Hazardous liquid transportation—
Pipeline integrity management in high consequence areas; published 12-1-00
Pipeline integrity management in high consequence areas; effective date delay; published 2-8-01

TREASURY DEPARTMENT
Alcohol, Tobacco and Firearms Bureau
Organization, functions, and authority delegations:
Appropriate ATF officers; published 5-29-01

COMMENTS DUE NEXT WEEK

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Magnuson-Stevens Act provisions—
Domestic fisheries; exempted fishing permits; comments due by 6-6-01; published 5-22-01
Northeastern United States fisheries—
Atlantic deep-sea red crab; comments due by 6-7-01; published 5-8-01

DEFENSE DEPARTMENT
Federal Acquisition Regulation (FAR):
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; withdrawn; comments due by 6-4-01; published 4-3-01
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; comments due by 6-4-01; published 4-3-01

ENVIRONMENTAL PROTECTION AGENCY
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
South Carolina; comments due by 6-6-01; published 5-7-01
Air quality implementation plans; approval and promulgation; various States:
District of Columbia; comments due by 6-8-01; published 5-9-01
Kentucky; comments due by 6-8-01; published 5-9-01
Maryland; comments due by 6-6-01; published 5-7-01
Pennsylvania; comments due by 6-4-01; published 5-3-01
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Tennessee; comments due by 6-4-01; published 5-3-01
Air quality planning purposes; designation of areas:
Louisiana; comments due by 6-8-01; published 5-9-01
Hazardous waste:
Project XL program; site-specific projects—
Yolo County Landfill, Davis, CA; comments due by 6-8-01; published 5-9-01

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
Colorado; comments due by 6-4-01; published 5-1-01
Television stations; table of assignments:
Texas; comments due by 6-4-01; published 5-1-01

FEDERAL DEPOSIT INSURANCE CORPORATION
Riegle-Neal Interstate Banking and Branching Efficiency Act; implementation:
Interstate branches used primarily for deposit production; prohibition; comments due by 6-8-01; published 4-9-01

FEDERAL ELECTION COMMISSION
Independent expenditure reporting; comments due by 6-8-01; published 5-9-01

FEDERAL RESERVE SYSTEM
Riegle-Neal Interstate Banking and Branching Efficiency Act; implementation:
Interstate branches used primarily for deposit production; prohibition; comments due by 6-8-01; published 4-9-01

FEDERAL TRADE COMMISSION
Hart-Scott-Rodino Antitrust Improvement Act:
Premerger notification; reporting and waiting period requirements; comments due by 6-8-01; published 5-9-01

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; withdrawn; comments due by 6-4-01; published 4-3-01
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; comments due by 6-4-01; published 4-3-01

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare and Medicaid:
Physicians' referrals to health care entitties with which they have financial relationships; comments due by 6-4-01; published 4-4-01

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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H.R. 256/P.L. 107–8

To extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted. (May 11, 2001; 115 Stat. 10)

Last List April 13, 2001

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-044-00001-6)	6.50	[4]Jan. 1, 2001
3 (1997 Compilation and Parts 100 and 101)	(869-044-00002-4)	36.00	[1] Jan. 1, 2001
4	(869-044-00003-2)	9.00	Jan. 1, 2001
5 Parts:			
1-699	(869-044-00004-1)	53.00	Jan. 1, 2001
700-1199	(869-044-00005-9)	44.00	Jan. 1, 2001
1200-End, 6 (6 Reserved)	(869-044-00006-7)	55.00	Jan. 1, 2001
7 Parts:			
1-26	(869-044-00007-5)	40.00	[4]Jan. 1, 2001
27-52	(869-044-00008-3)	45.00	Jan. 1, 2001
53-209	(869-044-00009-1)	34.00	Jan. 1, 2001
210-299	(869-044-00010-5)	56.00	Jan. 1, 2001
300-399	(869-044-00011-3)	38.00	Jan. 1, 2001
400-699	(869-044-00012-1)	53.00	Jan. 1, 2001
700-899	(869-044-00013-0)	50.00	Jan. 1, 2001
900-999	(869-044-00014-8)	54.00	Jan. 1, 2001
1000-1199	(869-042-00015-3)	18.00	Jan. 1, 2000
1200-1599	(869-044-00016-4)	55.00	Jan. 1, 2001
1600-1899	(869-044-00017-2)	57.00	Jan. 1, 2001
1900-1939	(869-044-00018-1)	21.00	[4]Jan. 1, 2001
1940-1949	(869-044-00019-9)	37.00	[4]Jan. 1, 2001
1950-1999	(869-044-00020-2)	45.00	Jan. 1, 2001
2000-End	(869-044-00021-1)	43.00	Jan. 1, 2001
8	(869-044-00022-9)	54.00	Jan. 1, 2001
9 Parts:			
1-199	(869-044-00023-7)	55.00	Jan. 1, 2001
200-End	(869-044-00024-5)	53.00	Jan. 1, 2001
10 Parts:			
1-50	(869-044-00025-3)	55.00	Jan. 1, 2001
51-199	(869-044-00026-1)	52.00	Jan. 1, 2001
200-499	(869-044-00027-0)	53.00	Jan. 1, 2001
500-End	(869-044-00028-8)	55.00	Jan. 1, 2001
11	(869-044-00029-6)	31.00	Jan. 1, 2001
12 Parts:			
1-199	(869-044-00030-0)	27.00	Jan. 1, 2001
200-219	(869-044-00031-8)	32.00	Jan. 1, 2001
220-299	(869-044-00032-6)	54.00	Jan. 1, 2001
300-499	(869-044-00033-4)	41.00	Jan. 1, 2001
500-599	(869-044-00034-2)	38.00	Jan. 1, 2001
600-End	(869-044-00035-1)	57.00	Jan. 1, 2001
13	(869-044-00036-9)	45.00	Jan. 1, 2001
14 Parts:			
1-59	(869-044-00037-7)	57.00	Jan. 1, 2001
60-139	(869-042-00038-2)	46.00	Jan. 1, 2000
140-199	(869-044-00039-3)	26.00	Jan. 1, 2001
200-1199	(869-044-00040-7)	44.00	Jan. 1, 2001
1200-End	(869-044-00041-5)	37.00	Jan. 1, 2001
15 Parts:			
0-299	(869-044-00042-3)	36.00	Jan. 1, 2001
300-799	(869-044-00043-1)	54.00	Jan. 1, 2001
800-End	(869-044-00044-0)	40.00	Jan. 1, 2001
16 Parts:			
0-999	(869-044-00045-8)	45.00	Jan. 1, 2001
1000-End	(869-044-00046-6)	53.00	Jan. 1, 2001
17 Parts:			
*1-199	(869-044-00048-2)	45.00	Apr. 1, 2001
200-239	(869-042-00049-8)	38.00	Apr. 1, 2000
240-End	(869-042-00050-1)	49.00	Apr. 1, 2000
18 Parts:			
1-399	(869-042-00051-0)	54.00	Apr. 1, 2000
400-End	(869-044-00052-1)	23.00	Apr. 1, 2001
19 Parts:			
1-140	(869-042-00053-6)	40.00	Apr. 1, 2000
141-199	(869-042-00054-4)	40.00	Apr. 1, 2000
*200-End	(869-044-00055-5)	20.00	[5]Apr. 1, 2001
20 Parts:			
1-399	(869-042-00056-1)	33.00	Apr. 1, 2000
400-499	(869-042-00057-9)	56.00	Apr. 1, 2000
500-End	(869-042-00058-7)	58.00	Apr. 1, 2000
21 Parts:			
1-99	(869-042-00059-5)	26.00	Apr. 1, 2000
100-169	(869-042-00060-9)	30.00	Apr. 1, 2000
170-199	(869-042-00061-7)	29.00	Apr. 1, 2000
200-299	(869-044-00062-8)	16.00	Apr. 1, 2001
300-499	(869-042-00063-3)	20.00	Apr. 1, 2000
500-599	(869-042-00064-1)	31.00	Apr. 1, 2000
600-799	(869-042-00065-0)	10.00	Apr. 1, 2000
800-1299	(869-042-00066-8)	38.00	Apr. 1, 2000
1300-End	(869-042-00067-6)	15.00	Apr. 1, 2000
22 Parts:			
1-299	(869-042-00068-4)	54.00	Apr. 1, 2000
300-End	(869-042-00069-2)	31.00	Apr. 1, 2000
23	(869-042-00070-6)	29.00	Apr. 1, 2000
24 Parts:			
0-199	(869-042-00071-4)	40.00	Apr. 1, 2000
200-499	(869-042-00072-2)	37.00	Apr. 1, 2000
500-699	(869-042-00073-1)	20.00	Apr. 1, 2000
700-1699	(869-042-00074-9)	46.00	Apr. 1, 2000
1700-End	(869-042-00075-7)	18.00	[5]Apr. 1, 2000
***25**	(869-044-00076-8)	57.00	Apr. 1, 2001
26 Parts:			
§§ 1.0-1-1.60	(869-042-00077-3)	31.00	Apr. 1, 2000
§§ 1.61-1.169	(869-044-00078-4)	57.00	Apr. 1, 2001
§§ 1.170-1.300	(869-042-00079-0)	38.00	Apr. 1, 2000
§§ 1.301-1.400	(869-042-00080-3)	29.00	Apr. 1, 2000
§§ 1.401-1.440	(869-042-00081-1)	47.00	Apr. 1, 2000
*§§ 1.441-1.500	(869-044-00082-2)	45.00	Apr. 1, 2001
§§ 1.501-1.640	(869-042-00083-8)	32.00	Apr. 1, 2000
§§ 1.641-1.850	(869-042-00084-6)	41.00	Apr. 1, 2000
§§ 1.851-1.907	(869-042-00085-4)	43.00	Apr. 1, 2000
§§ 1.908-1.1000	(869-042-00086-2)	41.00	Apr. 1, 2000
§§ 1.1001-1.1400	(869-042-00087-1)	45.00	Apr. 1, 2000
§§ 1.1401-End	(869-042-00088-9)	66.00	Apr. 1, 2000
2-29	(869-042-00089-7)	45.00	Apr. 1, 2000
30-39	(869-044-00090-3)	37.00	Apr. 1, 2001
40-49	(869-044-00091-1)	25.00	Apr. 1, 2001
50-299	(869-042-00092-7)	23.00	Apr. 1, 2000
300-499	(869-042-00093-5)	43.00	Apr. 1, 2000
500-599	(869-042-00094-3)	12.00	Apr. 1, 2000
600-End	(869-042-00095-1)	12.00	Apr. 1, 2000
27 Parts:			
1-199	(869-042-00096-0)	59.00	Apr. 1, 2000

Title	Stock Number	Price	Revision Date
200–End	(869–042–00097–8)	18.00	Apr. 1, 2000
28 Parts:			
0–42	(869–042–00098–6)	43.00	July 1, 2000
43–end	(869–042–00099–4)	36.00	July 1, 2000
29 Parts:			
0–99	(869–042–00100–1)	33.00	July 1, 2000
100–499	(869–042–00101–0)	14.00	July 1, 2000
500–899	(869–042–00102–8)	47.00	July 1, 2000
900–1899	(869–042–00103–6)	24.00	July 1, 2000
1900–1910 (§§ 1900 to 1910.999)	(869–042–00104–4)	46.00	[6]July 1, 2000
1910 (§§ 1910.1000 to end)	(869–042–00105–2)	28.00	[6]July 1, 2000
1911–1925	(869–042–00106–1)	20.00	July 1, 2000
1926	(869–042–00107–9)	30.00	[6]July 1, 2000
1927–End	(869–042–00108–7)	49.00	July 1, 2000
30 Parts:			
1–199	(869–042–00109–5)	38.00	July 1, 2000
200–699	(869–042–00110–9)	33.00	July 1, 2000
700–End	(869–042–00111–7)	39.00	July 1, 2000
31 Parts:			
0–199	(869–042–00112–5)	23.00	July 1, 2000
200–End	(869–042–00113–3)	53.00	July 1, 2000
32 Parts:			
1–39, Vol. I		15.00	[2]July 1, 1984
1–39, Vol. II		19.00	[2]July 1, 1984
1–39, Vol. III		18.00	[2]July 1, 1984
1–190	(869–042–00114–1)	51.00	July 1, 2000
191–399	(869–042–00115–0)	62.00	July 1, 2000
400–629	(869–042–00116–8)	35.00	July 1, 2000
630–699	(869–042–00117–6)	25.00	July 1, 2000
700–799	(869–042–00118–4)	31.00	July 1, 2000
800–End	(869–042–00119–2)	32.00	July 1, 2000
33 Parts:			
1–124	(869–042–00120–6)	35.00	July 1, 2000
125–199	(869–042–00121–4)	45.00	July 1, 2000
200–End	(869–042–00122–5)	36.00	July 1, 2000
34 Parts:			
1–299	(869–042–00123–1)	31.00	July 1, 2000
300–399	(869–042–00124–9)	28.00	July 1, 2000
400–End	(869–042–00125–7)	54.00	July 1, 2000
35	(869–042–00126–5)	10.00	July 1, 2000
36 Parts			
1–199	(869–042–00127–3)	24.00	July 1, 2000
200–299	(869–042–00128–1)	24.00	July 1, 2000
300–End	(869–042–00129–0)	43.00	July 1, 2000
37	(869–042–00130–3)	32.00	July 1, 2000
38 Parts:			
0–17	(869–042–00131–1)	40.00	July 1, 2000
18–End	(869–042–00132–0)	47.00	July 1, 2000
39	(869–042–00133–8)	28.00	July 1, 2000
40 Parts:			
1–49	(869–042–00134–6)	37.00	July 1, 2000
50–51	(869–042–00135–4)	28.00	July 1, 2000
52 (52.01–52.1018)	(869–042–00136–2)	36.00	July 1, 2000
52 (52.1019–End)	(869–042–00137–1)	44.00	July 1, 2000
53–59	(869–042–00138–9)	21.00	July 1, 2000
60	(869–042–00139–7)	66.00	July 1, 2000
61–62	(869–042–00140–1)	23.00	July 1, 2000
63 (63.1–63.1119)	(869–042–00141–9)	66.00	July 1, 2000
63 (63.1200–End)	(869–042–00142–7)	49.00	July 1, 2000
64–71	(869–042–00143–5)	12.00	July 1, 2000
72–80	(869–042–00144–3)	47.00	July 1, 2000
81–85	(869–042–00145–1)	36.00	July 1, 2000
86	(869–042–00146–0)	66.00	July 1, 2000
87–135	(869–042–00146–8)	66.00	July 1, 2000
136–149	(869–042–00148–6)	42.00	July 1, 2000
150–189	(869–042–00149–4)	38.00	July 1, 2000
190–259	(869–042–00150–8)	25.00	July 1, 2000
260–265	(869–042–00151–6)	36.00	July 1, 2000
266–299	(869–042–00152–4)	35.00	July 1, 2000
300–399	(869–042–00153–2)	29.00	July 1, 2000
400–424	(869–042–00154–1)	37.00	July 1, 2000
425–699	(869–042–00155–9)	48.00	July 1, 2000
700–789	(869–042–00156–7)	46.00	July 1, 2000
790–End	(869–042–00157–5)	23.00	[6]July 1, 2000
41 Chapters:			
1, 1–1 to 1–10		13.00	[3]July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3]July 1, 1984
3–6		14.00	[3]July 1, 1984
7		6.00	[3]July 1, 1984
8		4.50	[3]July 1, 1984
9		13.00	[3]July 1, 1984
10–17		9.50	[3]July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3]July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3]July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3]July 1, 1984
19–100		13.00	[3]July 1, 1984
1–100	(869–042–00158–3)	15.00	July 1, 2000
101	(869–042–00159–1)	37.00	July 1, 2000
102–200	(869–042–00160–5)	21.00	July 1, 2000
201–End	(869–042–00161–3)	16.00	July 1, 2000
42 Parts:			
1–399	(869–042–00162–1)	53.00	Oct. 1, 2000
400–429	(869–042–00163–0)	55.00	Oct. 1, 2000
430–End	(869–042–00164–8)	57.00	Oct. 1, 2000
43 Parts:			
1–999	(869–042–00165–6)	45.00	Oct. 1, 2000
1000–end	(869–042–00166–4)	55.00	Oct. 1, 2000
44	(869–042–00167–2)	45.00	Oct. 1, 2000
45 Parts:			
1–199	(869–042–00168–1)	50.00	Oct. 1, 2000
200–499	(869–042–00169–9)	29.00	Oct. 1, 2000
500–1199	(869–042–00170–2)	45.00	Oct. 1, 2000
1200–End	(869–042–00171–1)	54.00	Oct. 1, 2000
46 Parts:			
1–40	(869–042–00172–9)	42.00	Oct. 1, 2000
41–69	(869–042–00173–7)	34.00	Oct. 1, 2000
70–89	(869–042–00174–5)	13.00	Oct. 1, 2000
90–139	(869–042–00175–3)	41.00	Oct. 1, 2000
140–155	(869–042–00176–1)	23.00	Oct. 1, 2000
156–165	(869–042–00177–0)	31.00	Oct. 1, 2000
166–199	(869–042–00178–8)	42.00	Oct. 1, 2000
200–499	(869–042–00179–6)	36.00	Oct. 1, 2000
500–End	(869–042–00180–0)	23.00	Oct. 1, 2000
47 Parts:			
0–19	(869–042–00181–8)	54.00	Oct. 1, 2000
20–39	(869–042–00182–6)	41.00	Oct. 1, 2000
40–69	(869–042–00183–4)	41.00	Oct. 1, 2000
70–79	(869–042–00184–2)	54.00	Oct. 1, 2000
80–End	(869–042–00185–1)	54.00	Oct. 1, 2000
48 Chapters:			
1 (Parts 1–51)	(869–042–00186–9)	57.00	Oct. 1, 2000
1 (Parts 52–99)	(869–042–00187–7)	45.00	Oct. 1, 2000
2 (Parts 201–299)	(869–042–00188–5)	53.00	Oct. 1, 2000
3–6	(869–042–00189–3)	40.00	Oct. 1, 2000
7–14	(869–042–00190–7)	52.00	Oct. 1, 2000
15–28	(869–042–00191–5)	53.00	Oct. 1, 2000
29–End	(869–042–00192–3)	38.00	Oct. 1, 2000
49 Parts:			
1–99	(869–042–00193–1)	53.00	Oct. 1, 2000
100–185	(869–042–00194–0)	57.00	Oct. 1, 2000
186–199	(869–042–00195–8)	17.00	Oct. 1, 2000
200–399	(869–042–00196–6)	57.00	Oct. 1, 2000
400–999	(869–042–00197–4)	58.00	Oct. 1, 2000
1000–1199	(869–042–00198–2)	25.00	Oct. 1, 2000
1200–End	(869–042–00199–1)	21.00	Oct. 1, 2000
50 Parts:			
1–199	(869–042–00200–8)	55.00	Oct. 1, 2000
200–599	(869–042–00201–6)	35.00	Oct. 1, 2000

Title	Stock Number	Price	Revision Date
600–End	(869–042–00202–4)	55.00	Oct. 1, 2000
CFR Index and Findings Aids	(869–042–00047–1)	53.00	Jan. 1, 2000
Complete 2000 CFR set		1,094.00	2000
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1999, through July 1, 2000. The CFR volume issued as of July 1, 1999 should be retained..

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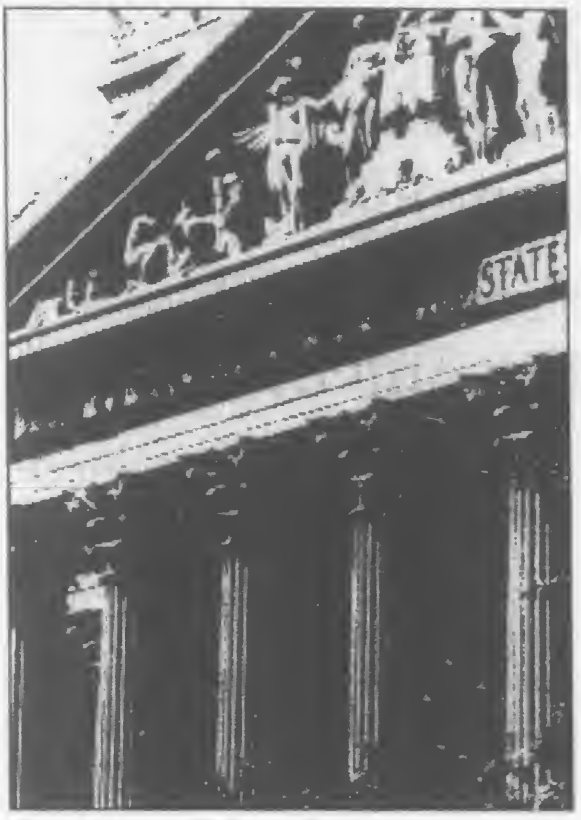

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