AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Federal Register

5–23–00 Tuesday
Vol. 65 No. 100 May 23, 2000
Pages 33247–33428

Editorial Note: In the issue of Monday, May 22, 2000 the inside cover should read 32007–33246. In addition, page 32241 should read 32241–33241.

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Title 3—

The President

Proclamation 7309 of May 18, 2000

National Safe Boating Week, 2000

By the President of the United States of America

A Proclamation

Living in a country bordered by oceans and blessed with abundant lakes and rivers, Americans have made recreational boating one of our Nation's most popular pastimes. Each year, more than 74 million Americans take to the water with family and friends to relax and enjoy the beauty of the natural world.

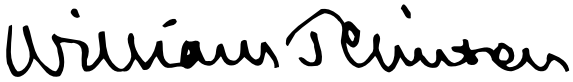
But each year, for too many Americans, boating ends in tragedy. Most boating-related injuries and deaths are the result of human error and poor judgment, caused, for example, by excessive speed, failure to follow safe navigation rules, and drinking or taking drugs while operating watercraft. These injuries could easily be prevented by using common sense and making safety the first priority.

Boating accidents can occur at any time—whether the water is smooth or turbulent and whether the boater is experienced or a novice. One of the best ways to make a recreational boating experience safe and enjoyable is to ensure that everyone on board always wears a life jacket. To reinforce this lifesaving message, the National Safe Boating Campaign has once again selected the theme ''Boat Smart from the Start! Wear Your Life Jacket!'' for this year's observance. Recreational boating organizations, including the National Safe Boating Council and the National Association of State Boating Law Administrators, as well as the U.S. Coast Guard, other Federal agencies, and State and local governments, are continuing to promote safety through education by emphasizing the importance of wearing life jackets and practicing boating and water safety.

In recognition of the importance of safe boating practices, the Congress, by joint resolution approved June 4, 1958 (36 U.S.C. 131), as amended, has authorized and requested the President to proclaim annually the 7-day period ending on the last Friday before Memorial Day as ''National Safe Boating Week.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 20 through May 26, 2000, as National Safe Boating Week. I encourage the governors of the 50 States and the Commonwealth of Puerto Rico, and officials of other areas subject to the jurisdiction of the United States, to join in observing this occasion and to urge all Americans to use safe boating practices throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of May, in the year of our Lord two thousand, and of the Independence of the United States of America the two hundred and twenty-fourth.



[FR Doc. 00–13063
Filed 5–22–00; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 124

8(a) Business Development/Small Disadvantaged Business Status Determinations

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: This final rule amends SBA's regulations governing the Small Disadvantaged Business (SDB) program. The rule establishes a formal reconsideration process for applicants declined certification as an SDB.

DATES: This rule is effective on May 23, 2000.

FOR FURTHER INFORMATION CONTACT: Terri Dickerson, Acting Assistant Administrator, Office of Small Disadvantaged Business Certification and Eligibility, 202–619–1727.

SUPPLEMENTARY INFORMATION: On March 10, 2000, SBA published in the **Federal Register** a proposed rule to amend SBA's regulations governing the Small Disadvantaged Business (SDB) program. *See* 65 FR 12955. The rule proposed to grant applicants declined SDB certification, a 45-day period to request that the Assistant Administrator, Office of Small Disadvantaged Business Certification and Eligibility (AA/SDBCE) reconsider the decline. The proposed rule was designed to improve the efficiency and effectiveness of the certification process, by providing a formal mechanism to enable SDB applicants to immediately correct deficiencies in their SDB application.

SBA received one timely comment concerning the proposed regulation. The commenter supported the proposed amendment, but requested that SBA indicate whether the reconsideration process would apply to pending SDB applications. SBA agrees that it should clarify the applicability of this final rule.

As indicated above, this rule is effective on the date of publication. An immediate effective date will avoid any unnecessary delay in the implementation of the rule and any resulting interference in the efficient administration of the SDB certification process. To ensure that all current SDB applicants are afforded the same opportunity for a reconsideration of the AA/SDBCE's negative determination of SDB eligibility, this rule applies to all applications for SDB certification submitted on or after the effective date of this rule, to all SDB applications pending before a Private Certifier or the AA/SDBCE as of the rule's effective date, to any declined application where no appeal was filed at the Office of Hearings and Appeals (OHA) and applications that are pending appeals at OHA.

Since SBA received no other comments concerning the proposed rule, this final rule is identical in all respects to the proposed rule which SBA published on March 10. Under this rule, applicants denied SDB certification have 45 days from the date of the AA/SDBCE's written decision, to request that the AA/SDBCE reconsider the decline. As part of the request for reconsideration, applicants requesting reconsideration may submit additional evidence to show that they have overcome the reason(s) for the AA/SDBCE's denial. If the AA/SDBCE once again declines the application solely on grounds that were not included in the original denial letter, the AA/SDBCE is required to grant the applicant an additional 45-day period to request that the AA/SDBCE reconsider the new basis for denial. If, however, the AA/SDBCE determines that the applicant is ineligible for SDB certification for one or more of the same reason(s) as addressed in the original decline, the applicant is not entitled to a second reconsideration.

This final rule does not affect an applicant's right under the current 13 CFR 124.1008(f)(3) to appeal the AA/SDBCE's decision denying eligibility nor does it affect an applicant's right with respect to ownership and control determinations of Private Certifiers. An applicant denied SDB certification based solely on reasons of social disadvantage, economic disadvantage, or disadvantaged ownership or control, continues to have the right to appeal to SBA's Office of Hearings and Appeals (OHA). The applicant also has the option to forego the reconsideration process and appeal the AA/SDBCE's initial decision to OHA, or to request reconsideration and if declined a second time solely on those grounds, to appeal the AA/SDBCE's reconsideration decision.

Compliance With Executive Orders 13132, 12988, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

This final rule does not constitute a significant regulatory action as defined by Executive Order 12866, in that it is not likely to have an annual economic effect of $100 million or more on the economy, result in a major increase in costs or prices, or have a significant adverse effect on competition or the United States economy. SBA certifies 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, *et seq.,* since it is a procedural amendment to the SDB certification process that would not impose any mandatory requirements on SDB applicants or deprive them of any existing rights under governing SBA regulations.

For purposes of the Paperwork Reduction Act of 1995 (Public Law 104–13), SBA certifies that this final rule imposes no new reporting or recordkeeping requirements on firms applying to be certified as an SDB. The rule grants certain SDB applicants the right to submit evidence to SBA that they are socially and economically disadvantaged, that they are citizens of the United States, and that they own and control the applicant concern. This rule does not require an SDB, once certified, to report any other information to SBA or to maintain additional records.

For purposes of Executive Order 13132, SBA has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For purposes of Executive Order 12988, SBA certifies that this 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 124

Government procurement, Minority businesses, Tribally owned concerns, Hawaiian Natives, Reporting and recordkeeping requirements, and Technical assistance.

Accordingly, for the reasons set forth above, SBA amends title 13, CFR as follows:

PART 124—[AMENDED]

1. The authority citation for 13 CFR part 124 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(j), 637(a), 637(d) and Pub. L. 99–661, Pub. L. 100–656, sec. 1207, Pub. L. 101–37, Pub. L. 101–574, and 42 U.S.C. 9815.

2. Section 124.1008 is amended by redesignating paragraphs (f)(3) and (f)(4) as paragraphs (f)(4) and (f)(5), respectively, and adding a new paragraph (f)(3) to read as follows:

§ 124.1008 How does a firm become certified as an SDB?

* * * * *

(f) * * *

(3)(i) If the AA/SDBCE declines the firm's application for SDB certification, the firm may request that the AA/SDBCE reconsider his or her initial decline by submitting a written request to the AA/SDBCE within 45 days of the date of the AA/SDBCE's decision. The applicant may provide any additional information and documentation pertinent to overcoming the reason(s) for the initial decline.

(ii) The AA/SDBCE will issue a written decision within 30 days of receiving the applicant's request for reconsideration, if practicable. The AA/SDBCE may either approve the application, deny it on one or more of the same grounds as the initial decision, or deny it on other grounds. If the application is denied, the AA/SDBCE will explain why the applicant is not eligible for SDB certification and give specific reasons for the decline. If the AA/SDBCE declines the application solely on issues not raised in the initial decline, the applicant may request another reconsideration as if it were an initial decline. If the AA/SDBCE declines the application for one or more of the same reasons as addressed in the initial decline, the applicant is not entitled to a second reconsideration.

* * * * *

Dated: May 12, 2000.

Aida Alvarez,

Administrator.

[FR Doc. 00–12690 Filed 5–22–00; 8:45 am]

BILLING CODE 8025–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ACE–7]

Amendment to Class E Airspace; Hampton, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Hampton Municipal Airport, Hampton, IA. The FAA has developed Area Navigation (RNAV) Runway (RWY) 17 and RNAV RWY 35 Standard Instrument Approach Procedures (SIAPs) to serve Hampton Municipal Airport, IA. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the RNAV RWY 17 and RNAV RWY 35 SIAPs in controlled airspace.

In addition a minor revision to the Airport Reference Point (ARP) is included in this document.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing RNAV RWY 17 and RNAV RWY 35 SIAPs, revise the ARP and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, October 5, 2000.

Comments for inclusion in the Rules Docket must be received on or before July 10, 2000.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, DOT Regional Headquarters Building, Federal Aviation Administration, Docket Number 00–ACE–7, 901 Locust, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA has developed RNAV RWY 17 and RNAV RWY 35 SIAPs to serve the Hampton Municipal Airport, IA. The amendment to Class E airspace at Hampton, IA, will provide additional controlled airspace at and above 700 feet AGL in order to contain the SIAPs within controlled airspace and thereby facilitate separation of aircraft operating under Instrument Flight Rules (IFR). The amendment at Hampton Municipal Airport, IA, will provide additional controlled airspace for aircraft operating under IFR and revise the ARP. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G, dated September 10, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 00–ACE–7.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G Airspace Designations and Reporting Points, dated September 10, 1999, and effective September 16, 1999, is amended as follows:

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

* * * * *

Hampton Municipal Airport, IA
(Lat. 42°43′26″ N., long. 93°13′35″ W.)
Hampton NDB
(Lat. 42°43′32″ N., long. 93°13′30″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Hampton Municipal Airport and within 2.6 miles each side of the 343° bearing from the Hampton NDB extending from the 6.4 mile radius to 7.4 miles northwest of the airport and 2 miles each side of the 177° bearing from the Hampton Municipal Airport extending from the 6.4 mile radius to 7.7 miles south of the airport, excluding that airspace within the Mason City, IA Class E airspace.

* * * * *

Issued in Kansas City, MO, on May 9, 2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 00–12821 Filed 5–22–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 00–36]

RIN 1515–AC62

Entry of Softwood Lumber Shipments From Canada

AGENCY: Customs Service, Treasury.

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This document adopts on an interim basis an amendment to the provision within the Customs Regulations that sets forth entry requirements for shipments of softwood lumber from Canada under the agreement between the Governments of the United States and Canada regarding trade in softwood lumber. This interim amendment implements an amendment to the softwood lumber agreement involving the addition of two export fee payment status categories (permit type codes) covering softwood lumber from the Canadian province of British Columbia.

DATES:

Effective Date: Interim rule effective May 23, 2000.

Comments: Comments must be submitted by July 24, 2000.

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

FOR FURTHER INFORMATION CONTACT: Dixie Staple, Office of Field Operations (202–927–1131).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Customs Regulations on an interim basis to reflect an amendment of the agreement between the Governments of the United States and Canada regarding trade in softwood lumber. The amendment involves the addition of two export fee payment status categories (permit type codes) covering softwood lumber from the Canadian province of British Columbia.

Adoption of the Softwood Lumber Agreement

On May 29, 1996, the United States entered into the Softwood Lumber Agreement (the Agreement) with Canada under the authority of section 301(c)(1)(D) of the Trade Act of 1974, as amended (19 U.S.C. 2411(c)(1)(D)), which authorizes the United States

Trade Representative (the USTR) to ''enter into binding agreements'' with a foreign country that commit the foreign country to, among other things, eliminate any burden or restriction on U.S. commerce resulting from an act, policy or practice of the foreign country. The Agreement, which went into effect on April 1, 1996, was specifically intended to provide a satisfactory resolution to certain acts, policies and practices of the Government of Canada affecting exports to the United States of softwood lumber which had been the subject of an investigation initiated by the USTR under section 302(b)(1)(A) of the Trade Act of 1974, as amended (19 U.S.C. 2412(b)(1)(A)), and which on October 4, 1991, pursuant to section 304(a) of the Trade Act of 1974, as amended (19 U.S.C. 2414(a)), had been found by the USTR to be unreasonable and to burden or restrict U.S. commerce. The Agreement was the product of a consultative process established by the United States and Canada and involving the participation of the U.S. Government, Canadian federal and provincial governments and, where appropriate, industries and other interested parties in both countries.

The Agreement refers specifically to softwood lumber mill products classified in subheadings 4407.10.00, 4409.10.10, 4409.10.20, and 4409.10.90 of the Harmonized Tariff Schedule of the United States (HTSUS) that were ''first manufactured'' into a product of one of those HTSUS subheadings in the Canadian provinces of Ontario, Quebec, British Columbia or Alberta. The Agreement requires that Canada assess fees on exports of that softwood lumber in each of the five years following April 1, 1996, based on the following schedule: (1) For total shipments up to 14.7 billion board feet, free (no fee); (2) for any amount shipped in excess of 14.7 billion board feet but not in excess of 15.35 billion board feet, US$50 per thousand board feet in the first year and with annual adjustments for inflation in subsequent years; and (3) for any amount shipped in excess of 15.35 billion board feet, US$100 per thousand board feet and with annual adjustments for inflation in subsequent years. The Agreement also allows an additional amount of exports of such softwood lumber in excess of 14.7 billion board feet without the payment of a fee if the average price of a benchmark softwood lumber price exceeds a prescribed ''trigger price'' during any quarterly period. In order to control and monitor exports of softwood lumber first manufactured in Ontario, Quebec, British Columbia and Alberta, the Agreement provides that Canada will issue an export permit for each shipment of such softwood lumber and that Canada will collect any required fee for amounts of lumber exported in excess of 14.7 billion board feet upon issuance of the export permit.

The Agreement requires the collection of information by Canada in connection with the issuance of export permits for softwood lumber first manufactured in Ontario, Quebec, British Columbia and Alberta and the collection of information by the United States in connection with import transactions involving that lumber.

With regard to the import end, the Agreement obligates the United States to require that the U.S. importer provide specific information in connection with the entry of the lumber under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484). The information required to be collected under the Agreement includes the following three specific data elements which were not previously required under the Customs laws and regulations, the last two of which were required by the Agreement to be collected as soon as practicable after the entry into force of the Agreement: (1) The province of first manufacture of the lumber; (2) the export permit number issued in Canada for the shipment; and (3) the fee status of the lumber for which the export permit was issued (whether the lumber in the shipment was attributed to a quantity to which no fee applies or to a quantity that is subject to the US$50 fee or to a quantity that is subject to the US$100 fee or to a quantity that is covered by the trigger price mechanism).

Implementing Regulations

On February 26, 1997, Customs published in the **Federal Register** (62 FR 8620) T.D. 97–6 which set forth interim amendments to the Customs Regulations to provide an appropriate regulatory context for the new requirements resulting from the Agreement as described above. Those amendments included the adoption of a new § 12.140 (19 CFR 12.140) which specifically addresses the entry requirements for softwood lumber under the agreement. Paragraph (b) of § 12.140 prescribes the information to be included on the entry summary and requires, under subparagraph (b)(2)(ii), an indication of the export fee payment status of the product for which the permit was issued according to one of four categories, Category A through Category D.

Amendment of the Agreement

On June 1, 1998, the British Columbia Forest Ministry reduced stumpage (timber harvesting) fees charged on all timber grown on provincially-owned lands, which accounts for the overwhelming majority of timber harvested in the province. The United States considered this reduction to be a violation of the Agreement and therefore invoked the dispute settlement provisions of the Agreement. When consultations failed to resolve the dispute, an Arbitration Panel was formed, Canada and the United States made submissions to the Arbitration Panel, and oral hearings were held. The dispute was ultimately settled, without issuance of a decision by the Arbitration Panel, on August 26, 1999, by an exchange of letters between the Governments of Canada and the United States which amended the Agreement and terminated the dispute.

The August 26, 1999, settlement and amendment of the Agreement applies only to softwood lumber first manufactured in British Columbia and applies only in the fourth and fifth years of the Agreement. The effect of the settlement and amended Agreement is to require Canada: (1) To impose the higher of the two basic export fee levels called for under the Agreement ($100 per thousand board feet with annual adjustments for inflation after the first year) at lower lumber export levels for the province than previously was the case and (2) to impose a new, higher fee on lumber exports when they exceed recent average annual shipments to the United States from the province. Specifically, under the terms of the settlement and amended Agreement:

1. In the fourth year (April 1, 1999–March 31, 2000):

a. Ninety million board feet of the 362.3 million board feet lower fee base (LFB) allocation to British Columbia companies in that year will be re-priced at the current upper fee base (UFB) fee level (that is, US$105.86 per thousand board feet which represents the adjusted $100 fee applicable during the fourth year), and Canada will collect a fee equivalent to that UFB fee level on the issuance of a permit for export of the softwood lumber to the United States (''re-priced LFB''); and

b. Canada will collect a fee on the issuance of a permit for export to the United States of quantities of UFB by British Columbia companies (which includes re-priced LFB described in paragraph 1.a. above) in excess of 110 million board feet (the average of the UFB shipments for the first and second years of the Agreement) at the fee level

of US$146.25 per thousand board feet (US$105.86 per thousand board feet plus US$40.39 per thousand board feet) (''re-priced UFB'');

2. In the fifth year (April 1, 2000–March 31, 2001):

a. Either 90 million board feet, or any amount in excess of 272 million board feet, whichever is greater, of LFB allocations to British Columbia companies in that year will be re-priced at the current UFB level, and Canada will collect a fee equivalent to that UFB fee level on the issuance of a permit for export of the softwood lumber to the United States (''re-priced LFB''); and

b. Canada will collect a fee on the issuance of a permit for export to the United States of quantities of UFB by British Columbia companies (which includes re-priced LFB described in paragraph 2.a. above) in excess of 110 million board feet (the average of the UFB shipments for the first and second years of the Agreement) at the fee level of US$40.39 above the current UFB rate (''re-priced UFB''); and

3. If any portion of LFB lumber allocated to a British Columbia company which has been re-priced pursuant to paragraph 1.a. or paragraph 2.a. above is transferred to a company in another Canadian province or is returned for temporary reallocation, Canada will collect a fee equivalent to the current UFB level on the issuance of a permit for export of the softwood lumber to the United States.

Customs has determined that the portion of § 12.140 that sets forth the various export fee payment statuses to be included on entry summaries must be amended in order to accommodate the new statuses that apply to softwood lumber first manufactured in British Columbia under the settlement and amended Agreement discussed above. In this regard, Customs has been advised by the Government of Canada that the new fee payment status categories (permit type codes) that Canada will assign to the subject British Columbia exports are ''R'' for re-priced LFB (that is, the products described in paragraphs 1.a. and 2.a. above) and ''S'' for re-priced UFB (that is, the products described in paragraphs 1.b. and 2.b. above).

Accordingly, this document amends the reporting requirement provisions within § 12.140(b) on an interim basis by adding two new subparagraphs (b)(2)(ii)(E) and (b)(2)(ii)(F) to cover the new ''R'' and ''S'' fee payment status categories applicable to British Columbia exports. It should be noted that no reference is made in the new regulatory text to transfers or reallocations (paragraph 3. above) because exports involving transfers and reallocations would be reported as having the category C export fee payment status (that is, UFB) already specified in subparagraph (b)(2)(ii)(C).

Comments

Before adopting this interim regulation as a final rule, consideration will be given to any written comments timely submitted to Customs, including comments on the clarity of this interim rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

Inapplicability of Notice and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

Pursuant to the provisions of 5 U.S.C. 553(a), public notice is inapplicable to this interim regulation because it is within the foreign affairs function of the United States. The collection of information provided for in this interim regulation is required under the terms of the amended Softwood Lumber Agreement with Canada and is necessary to ensure effective monitoring of the operation of that Agreement. Furthermore, for the same reasons and because the collection of this information must begin as soon as practicable, it is determined that good cause exists under the provisions of 5 U.S.C. 553(d)(3) for dispensing with a delayed effective date. Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply; and because this document involves a foreign affairs function of the United States and implements an international agreement, it is not subject to the provisions of Executive Order 12866.

Paperwork Reduction Act

The collections of information in the current regulations have already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB control number 1515–0065 (Entry summary and continuation sheet). This rule does not involve any material change to the existing approved information collection.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

List of Subjects in 19 CFR Part 12

Bonds, Canada, Customs duties and inspection, Entry of merchandise, Imports, Prohibited merchandise, Reporting and recordkeeping requirements, Restricted merchandise, Trade agreements.

Amendment to the Regulations

For the reasons set forth in the preamble, Part 12, Customs Regulations (19 CFR Part 12), is amended as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The authority citation for Part 12 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Section 12.140 also issued under 19 U.S.C. 1484, 2416(a), 2171;

* * * * *

2. In § 12.140:

a. Paragraph (b)(2)(ii)(C) is amended by removing the word ''or'' at the end;

b. Paragraph (b)(2)(ii)(D) is amended by removing the period at the end and adding, in its place, a semicolon; and

c. New paragraphs (b)(2)(ii)(E) and (b)(2)(ii)(F) are added to read as follows:

§ 12.140 Entry of softwood lumber from Canada.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(E) Category R: Payment of the re-priced lower fee base export fee applicable to certain products first manufactured in British Columbia; or

(F) Category S: Payment of the re-priced upper fee base export fee applicable to certain products first manufactured in British Columbia.

* * * * *

Approved: April 18, 2000.

Raymond W. Kelly,

Commissioner of Customs,

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 00–12921 Filed 5–22–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 162

[TD 00–37]

RIN 1515–AC60

Summary Forfeiture of Controlled Substances

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect an amendment to 21 U.S.C. 881 made by the Anti-Drug Abuse Act of 1986. The statutory amendment added Schedule II controlled substances to the Schedule I controlled substances already subject to summary forfeiture and destruction under subsection (f) of 21 U.S.C. 881. The amendment set forth in this document brings the Customs Regulations into conformance with the statute.

EFFECTIVE DATE: May 23, 2000.

FOR FURTHER INFORMATION CONTACT: Todd Schneider, Office of Regulations and Rulings (202–927–1694).

SUPPLEMENTARY INFORMATION:

Background

Subsection (a)(1) of 21 U.S.C. 881 provides that all controlled substances that have been manufactured, distributed, dispensed or acquired in violation of subchapter 1, chapter 13, title 21, United States Code, are subject to forfeiture to the United States and no property right shall exist in them. Subsection (f) of 21 U.S.C. 881 provides that all controlled substances in Schedule I and Schedule II will be deemed contraband, seized and summarily forfeited to the United States if they are possessed, transferred, sold or offered for sale in violation of the subchapter. Also, subsection (f) provides that all substances in Schedule I and Schedule II that are seized or come into the possession of the United States, the owners of which are unknown, will be deemed contraband and summarily forfeited to the United States.

Prior to 1986, 21 U.S.C. 881(f) applied only to Schedule I controlled substances. Section 1006(c)(1) of the Anti-Drug Abuse Act of 1986 (Pub. L. 99–570, 100 Stat. 3207, October 27, 1986) amended 21 U.S.C. 881(f) to include Schedule II controlled substances.

Section 162.45a of the Customs Regulations (19 CFR 162.45a), which implements the seizure and summary forfeiture procedure of 21 U.S.C. 881(f), does not reflect the current statute in that it only discusses Schedule I controlled substances (as defined in 21 U.S.C. 802(6) and 812). Accordingly, § 162.45a is amended in this document to include Schedule II controlled substances. This document also makes conforming changes to §§ 162.45(b) and 162.63.

Inapplicability of Public Notice and Comment and Delayed Effective Date Requirements

Pursuant to the provisions of 5 U.S.C. 553(b)(B), Customs has determined that notice and public procedures for this regulation are unnecessary. The regulatory change in this document conforms the Customs Regulations to the terms of a law that is already in effect. For the same reasons, pursuant to the provisions of 5 U.S.C. 553(d)(1) and (3), Customs finds that there is good cause for dispensing with a delayed effective date.

Executive Order 12866

This document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

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.

Drafting Information

The principal author of this document was Bill Conrad, Office of Regulations and Rulings, U.S. Customs Service.

List of Subjects in 19 CFR Part 162

Administrative practice and procedure, Drug traffic control, Imports, Inspection, Law Enforcement, Penalties, Prohibited merchandise, Seizures and forfeitures.

Amendment to the Regulations

For the reasons stated in the preamble, part 162 of the Customs Regulations (19 CFR Part 162) is amended as set forth below.

PART 162—INSPECTION, SEARCH, AND SEIZURE

1. The authority citation for part 162 continues to read in part, and a new authority citation for § 162.45a is added to read, as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1592, 1593a, 1624.

* * * * *

Section 162.45a also issued under 21 U.S.C. 881;

* * * * *

2. Section 162.45 is amended by revising the section heading, amending the first sentence of paragraph (b)(1), and revising paragraph (b)(2), to read as follows:

§ 162.45 Summary forfeiture: Property other than Schedule I and Schedule II controlled substances. Notice of seizure and sale.

* * * * *

(b) *Publication.* (1) If the appraised value of any property in one seizure from one person, other than Schedule I and Schedule II controlled substances (as defined in 21 U.S.C. 802(6) and 812), exceeds $2,500, the notice will be published for at least three successive weeks in a newspaper circulated at the Customs port and in the judicial district where the property was seized. * * *

(2) In all other cases, except for Schedule I and Schedule II controlled substances (see § 162.45a), the notice will be published by posting it in the customhouse nearest the place of seizure. It will be posted in a conspicuous place that is accessible to the public, with the date of posting noted thereon, and will be kept posted for at least three successive weeks. Articles of small value of the same class or kind included in two or more seizures will be advertised as one unit.

* * * * *

3. The heading and text of section 162.45a is revised to read as follows:

§ 162.45a Summary forfeiture of Schedule I and Schedule II controlled substances.

The Controlled Substances Act (84 Stat. 1242, 21 U.S.C. 801 *et seq.*) provides that all controlled substances in Schedule I and Schedule II (as defined in 21 U.S.C. 802(6) and 812) that are possessed, transferred, sold or offered for sale in violation of the Act will be deemed contraband, seized and summarily forfeited to the United States (21 U.S.C. 881(f)). The Controlled Substances Import and Export Act (21 U.S.C. 951 *et seq.*) incorporates by reference this contraband forfeiture provision of 21 U.S.C. 881. See 21 U.S.C. 965. Accordingly, in the case of a seizure of Schedule I or Schedule II controlled substances, the Fines, Penalties, and Forfeitures Officer or his designee will contact the appropriate Drug Enforcement Administration official responsible for issuing permits authorizing the importation of such substances (see 21 CFR part 1312). If upon inquiry the Fines, Penalties, and Forfeitures Officer or his designee is notified that no permit for lawful importation has been issued, he will declare the seized substances contraband and forfeited pursuant to 21

U.S.C. 881(f). Inasmuch as such substances are Schedule I and Schedule II controlled substances, the notice procedures set forth in § 162.45 are inapplicable. When seized controlled substances are required as evidence in a court proceeding, they will be preserved to the extent and in the quantities necessary for that purpose.

4. Section 162.63 is revised to read as follows:

§ 162.63 Arrests and seizures.

Arrests and seizures under the Controlled Substances Act (84 Stat. 1242, 21 U.S.C. 801 *et seq.*), and the Controlled Substances Import and Export Act (84 Stat. 1285, 21 U.S.C. 951 *et seq.*), will be handled in the same manner as other Customs arrests and seizures. However, Schedule I and Schedule II controlled substances (as defined in 21 U.S.C. 802(6) and 812) imported contrary to law will be seized and forfeited in the manner provided in the Controlled Substances Act (21 U.S.C. 881(f)). See § 162.45a.

Raymond W. Kelly,

Commissioner of Customs.

Approved: March 24, 2000.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 00–12922 Filed 5–22–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100, 110 and 165

[CGD 05–99–097]

RIN 2115–AA97, AA98, AE46

OPSAIL 2000, Port of Baltimore, MD

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary regulations in the Port of Baltimore, Maryland for OPSAIL 2000 activities. This action is necessary to provide for the safety of life on navigable waters before, during, and after OPSAIL 2000 events. This action will restrict vessel traffic in portions of the Inner Harbor, the Northwest Harbor, the Patapsco River, and the Chesapeake Bay.

DATES: This rule is effective from 6 a.m. on June 23, 2000 to 11:30 p.m. on June 29, 2000.

ADDRESSES: Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–99–097 and are available for inspection or copying at Commander, (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S. L. Phillips, Project Manager, Operations Division, Auxiliary Section, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 28, 2000 we published a notice of proposed rulemaking (NPRM) entitled OPSAIL 2000, Port of Baltimore, MD, in the **Federal Register** (65 FR 16355). We received no letters commenting on the proposed rule. No public hearing was requested and none was held.

Background and Purpose

Sail Baltimore is sponsoring OPSAIL 2000 activities in the Port of Baltimore, Maryland. Planned events include the arrival of 27 Tall Ships and other vessels on June 23, 2000 and a Parade of Sail and scheduled departure of those vessels on June 29, 2000.

The Coast Guard anticipates a large spectator fleet for these events. Operators should expect significant vessel congestion along the arrival and parade routes.

The purpose of these regulations is to promote maritime safety and protect participants and the boating public in the Port of Baltimore and the waters of the Chesapeake Bay immediately prior to, during, and after the scheduled events. The regulations will provide for clear parade routes for the participating vessels, establish no wake zones along the parade routes, provide a safety buffer around the participating vessels while they are in transit, and in certain anchorage areas, modify existing anchorage regulations for the benefit of participants and spectators. The regulations will impact the movement of all vessels operating in the specified areas of the Port of Baltimore and the Chesapeake Bay.

It may be necessary for the Coast Guard to establish additional safety or security zones in addition to these regulations to safeguard dignitaries and certain vessels participating in the event. If the Coast Guard deems it necessary to establish such zones at a later date, the details of those zones will be announced separately via the **Federal Register**, Local Notice to Mariners, Safety Voice Broadcasts, and any other means available.

All vessel operators and passengers are reminded that vessels carrying passengers for hire or that have been chartered and are carrying passengers may have to comply with certain additional rules and regulations beyond the safety equipment requirements for all pleasure craft. When a vessel is not being used exclusively for pleasure, but rather is engaged in carrying passengers for hire or has been chartered and is carrying the requisite number of passengers, the vessel operator must possess an appropriate license and the vessel may be subject to inspection. The definition of the term ''passenger for hire'' is found in 46 U.S.C. 2101(21a). In general, it means any passenger who has contributed any consideration (monetary or otherwise) either directly or indirectly for carriage onboard the vessel. The definition of the term ''passenger'' is found in 46 U.S.C. 2101(21). It varies depending on the type of vessel, but generally means individuals carried aboard vessels except for certain specified individuals engaged in the operation of the vessel or the business of the owner/charterer. The law provides for substantial penalties for any violation of applicable license and inspection requirements. If you have any questions concerning the application of the above law to your particular case, you should contact the Coast Guard at the address listed in **ADDRESSES** for additional information.

Vessel operators are reminded they must have sufficient facilities on board their vessels to retain all garbage and untreated sewage. Discharge of either into any waters of the United States is strictly forbidden. Violators may be assessed civil penalties up to $25,000 or face criminal prosecution.

We recommend that vessel operators visiting the Port of Baltimore for this event obtain up to date editions of National Ocean Service Charts 12278 and 12281 to avoid anchoring within a charted cable or pipeline area.

With the arrival of OPSAIL 2000 and spectator vessels in the Port of Baltimore for this event, it will be necessary to curtail normal port operations to some extent. Interference will be kept to the minimum considered necessary to ensure the safety of life on the navigable waters immediately before, during, and after the scheduled events.

Discussion of Rule

The OPSAIL 2000 vessels are scheduled to arrive on June 23, 2000 and will follow a parade route of approximately 3 nautical miles that includes specified waters of the Inner Harbor and Northwest Harbor. The

OPSAIL 2000 vessels are scheduled to depart on June 29, 2000 and will follow a parade route of approximately 7 nautical miles that includes specified waters of the Inner Harbor, Northwest Harbor, and Patapsco River.

The safety of parade participants and spectators requires that spectator craft be kept at a safe distance from the parade routes during these vessel movements. The Coast Guard is establishing special local regulations for the areas through which the vessels will pass for the OPSAIL 2000 Tall Ships Arrival on June 23, 2000 and the OPSAIL 2000 Parade of Sail on June 29, 2000.

In addition to establishing special local regulations, we are establishing temporary moving safety zones around OPSAIL 2000 vessels which are 175 feet or greater in length, to ensure the safety of participants and spectators immediately prior to, during, and following the parades.

The Coast Guard also is temporarily modifying the existing anchorage regulations found at 33 CFR 110.158 to accommodate OPSAIL 2000 and spectator vessels. Anchorage No. 1, Anchorage No. 4, Anchorage No. 5, and Anchorage No. 6 will be designated exclusively for spectator vessels. Anchorage No. 3 will be designated exclusively for passenger vessels. Anchorage No. 2 will be closed to all vessels except OPSAIL 2000 vessels.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The primary impact of these regulations will be on vessels wishing to transit the affected waterways during the Tall Ships Arrival on June 23, 2000 and the Parade of Sail on June 29, 2000. Although these regulations prevent traffic from transiting a portion of the Inner Harbor, Northwest Harbor, and Patapsco River during these events, that restriction is limited in duration, affects only a limited area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area. Moreover, the magnitude of the event itself will severely hamper or prevent transit of the waterway, even absent these regulations designed to ensure it is conducted in a safe and orderly fashion.

Small Entities

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

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

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to operate or anchor in portions of the Inner Harbor, the Northwest Harbor, and the Patapsco River in the Port of Baltimore, Maryland. The regulations will not have a significant impact on a substantial number of small entities for the following reasons: the restrictions are limited in duration, affect only limited areas, and will be well publicized to allow mariners to make alternative plans for transiting the affected areas. Moreover, the magnitude of the event itself will severely hamper or prevent transit of the waterway, even absent these regulations designed to ensure it is conducted in a safe and orderly fashion.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking. We received no requests for assistance in understanding the rule.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g) and (h), of Commandant Instruction M16475.1C; this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.** By controlling vessel traffic during these events, this rule is intended to minimize environmental impacts of increased vessel traffic during the transits of event vessels.

List of Subjects

33 CFR Part 100

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

33 CFR Part 110

Anchorage grounds.

33 CFR Part 165

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

Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Parts 100, 110, and 165 as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Add temporary § 100.35T–05–097 to read as follows:

§ 100.35T–05–097 Special Local Regulations; OPSAIL 2000, Port of Baltimore, MD.

(a) *Definitions* (1) *Captain of the Port* means the Commander, Coast Guard Activities Baltimore or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) *Official Patrol Vessel* includes all Coast Guard, public, state, county or local law enforcement vessels assigned and/or approved by Commander, Coast Guard Activities Baltimore.

(3) *OPSAIL 2000 Vessel* includes all vessels participating in Operation Sail 2000 under the auspices of the Marine Event Permit submitted for the Port of Baltimore and approved by Commander, Fifth Coast Guard District.

(4) *Parade of Sail* is the outbound procession of OPSAIL 2000 vessels as they navigate designated routes in the Port of Baltimore on June 29, 2000.

(5) *Tall Ships Arrival* is the inbound procession of OPSAIL 2000 vessels as they navigate designated routes in the Port of Baltimore on June 23, 2000.

(b) *Regulated Areas.* (1) *Tall Ships Arrival Area:* All waters of the Patapsco River, Baltimore, Maryland, between the Ferry Bar Channel-East Section and the Inner Harbor west bulkhead, bounded by a line drawn from the coordinates at position latitude 39°15′40″ N, longitude 076°34′50″ W, thence southeasterly to latitude 39°15′23.5′ N, longitude 076° 34′44″ W, thence easterly to latitude 39°15′23.5″ N, longitude 076°33′53″ W.

(2) *Parade of Sail Area:* The waters of the Patapsco River, Northwest Harbor and Inner Harbor enclosed by:

Latitude	Longitude
39°15′40.5″ N	076°34′47.5″ W, to
39°15′04.9″ N	076°34′43.7″ W, and
39°14′07.5″ N	076°33′37.7″ W, to
39°12′46.3″ N	076°32′02.6″ W, to
39°10′24.8″ N	076°31′01″ W, to
39°12′06.3″ N	076°29′43.2″ W, to
39°13′22.3″ N	076°31′15.7″ W, to
39°15′40.2″ N	076°33′33.7″ W

All coordinates use Datum: NAD 83.

(c) *Special Local Regulations.* (1) Any person or vessel within the regulated area must operate in strict conformance with any directions given by the Captain of the Port and leave the regulated area immediately if the Captain of the Port so orders.

(2) Unless otherwise directed by the Captain of the Port, all vessels within the regulated area shall be operated at the minimum speed required to maintain steerage and shall avoid creating a wake.

(3) No vessel within the regulated area may anchor except in conformance with 33 CFR 110.158.

(4) The Coast Guard and Official Patrol vessels enforcing this section can be contacted on VHF Marine Band Radio, channels 13 and 16. The Captain of the Port can be contacted at telephone number (410) 576–2521 or 2693.

(5) The Captain of the Port will notify the public of any changes in the status of the regulated area by a Marine Safety Radio Broadcast on VHF–FM marine band radio, channel 22 (157.1 MHZ).

(d) *Effective dates.* (1) Tall Ships Arrival Area. This section is effective from 9 a.m. until 6 p.m. on June 23, 2000.

(2) *Parade of Sail Area.* Paragraph (b)(2) of this section is effective from 10:30 a.m. until 2:30 p.m. on June 29, 2000.

PART 110—[AMENDED]

3. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g).

4. From 10:30 a.m. until 2:30 p.m. on June 29, 2000, § 110.158 is amended by adding paragraph (c) to read as follows:

§ 110.158 Baltimore Harbor, MD.

* * * * *

(c) Notwithstanding paragraphs (a) and (b) of this section, the following temporary regulations apply from 10:30 a.m. until 2:30 p.m. on June 29, 2000 for OPSAIL 2000.

(1) Anchorage No. 1, Anchorage No. 4, Anchorage No. 5, and Anchorage No. 6 are designated for the exclusive use of spectator vessels. ''Spectator vessels'' includes any vessel, commercial or recreational, being used for pleasure or carrying passengers, that is in the Port of Baltimore to observe part or all of the events attendant to OPSAIL 2000.

(2) Anchorage No. 2 is designated for the exclusive use of OPSAIL 2000 vessels. ''OPSAIL 2000 Vessels'' includes all vessels participating in Operation Sail 2000 under the auspices of the Marine Event Permit submitted for the Port of Baltimore and approved by the Commander, Fifth Coast Guard District.

(3) Anchorage No. 3 is designated for the exclusive use of passenger vessels. ''Passenger vessel'' has the meaning of that term in 46 U.S.C. 2101(22).

PART 165—[AMENDED]

5. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

6. Add temporary § 165.T05–097 to read as follows:

§ 165.T05-097 Safety Zone; OPSAIL 2000, Port of Baltimore, MD.

(a) *Definitions:* (1) *Captain of the Port* means the Commander, Coast Guard Activities Baltimore or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) *OPSAIL 2000 Vessels* includes all vessels participating in Operation Sail 2000 under the auspices of the Marine Event Permit submitted for the Port of Baltimore and approved by Commander, Fifth Coast Guard District.

(b) *Location.* The following areas are moving safety zones: All waters within 150 yards ahead of or 50 yards outboard or aft of any OPSAIL 2000 vessel which is 175 feet or greater in length, while operating on the Chesapeake Bay or its tributaries, north of the Maryland-Virginia border and south of latitude 39°35′00″.

(c) *Regulations.* (1) All persons are required to comply with the general regulations governing safety zones in § 165.23 of this part.

(2) No person or vessel may enter or navigate within the regulated areas unless authorized to do so by the Captain of the Port. Any person or vessel authorized to enter the regulated areas must operate in strict conformance with any directions given by the Captain of the Port and leave the regulated area

immediately if the Captain of the Port so orders.

(3) The Coast Guard vessels enforcing this section can be contacted on VHF Marine Band Radio, channels 13 and 16. The Captain of the Port can be contacted at telephone number (410) 576–2521 or 2693.

(4) The Captain of the Port will notify the public of any changes in the status of this zone by a Marine Safety Radio Broadcast on VHF–FM marine band radio, channel 22 (157.1 MHZ).

(d) *Effective dates:* This section is effective from 6 a.m. on June 23, 2000 to 11:30 p.m. on June 29, 2000.

Dated: May 12, 2000.

Thomas E. Bernard,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 00–12877 Filed 5–22–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 05–00–004]

RIN 2115–AA97

Safety Zone; Transit of S/V Amerigo Vespucci, Chesapeake Bay, Baltimore, MD

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone in the Chesapeake Bay and the Port of Baltimore, Maryland during the transit of the sailing vessel *Amerigo Vespucci* through those waters. This action is necessary to provide for the safety of life on navigable waters during the vessel's transit. This action will restrict vessel traffic in portions of the Chesapeake Bay and the Port of Baltimore.

DATES: This rule is effective from 6 a.m. on June 21, 2000 until 6 p.m. on June 24, 2000.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD5–00–004 and are available for inspection or copying at Commander, U.S. Coast Guard Activities, 2401 Hawkins Point Road, Baltimore, Maryland 21226–1791, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Ron Houck, Port Safety and Security Section, at (410) 576–2674.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 26, 2000 we published a notice of rulemaking (NPRM) entitled Safety Zone; Transit of S/V *Amerigo Vespucci,* Chesapeake Bay, Baltimore, MD, in the **Federal Register** (65 FR 24439). We received no letters commenting on the rule. No public hearing was requested and none was held.

Background and Purpose

The sailing vessel *Amerigo Vespucci* is planning to transit the waters of the Chesapeake Bay enroute to the Port of Baltimore, Maryland on June 21, 2000 and enroute from the Port of Baltimore, Maryland on June 24, 2000. The transits of this 330-foot sailing vessel are expected to attract a large fleet of spectator vessels. The purpose of these regulations is to promote maritime safety and protect the sailing vessel and the boating public during these transits by establishing a safety buffer around the sailing vessel.

Discussion of Rule

The Coast Guard is establishing a temporary moving safety zone around the 330-foot sailing vessel, *Amerigo Vespucci.* The safety zone will be enforced during her transit of Chesapeake Bay enroute to the Port of Baltimore, Maryland on June 21, 2000 and enroute from the Port of Baltimore on June 24, 2000. The safety zone will include all waters within 150 yards ahead of or 50 yards abeam or astern of the vessel while she is transiting the area. No vessels will be allowed to enter or navigate within this area unless authorized by the Captain of the Port.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

These regulations are limited in duration, affect only a limited area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area.

Small Entities

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

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

This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to operate or anchor in portions of the Chesapeake Bay and the Port of Baltimore, Maryland. The regulations will not have a significant impact on a substantial number of small entities for the following reasons: The restrictions are limited in duration, affect only limited areas, and will be well publicized to allow mariners to make alternative plans for transiting the affected areas.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking. We received no requests for assistance in understanding the rule.

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

Collection of Information

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

Federalism

We have analyzed this rule under E.O. 13132 and have determined that this

rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1C; this rule is categorically excluded from further environmental documentation. This rule will have no affect on the environment.

List of Subjects in 33 CFR Part 165

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

Regulation

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

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Add temporary § 165.T05–004 to read as follows:

§ 165.T05–004 Safety Zone; Transit of S/V Amerigo Vespucci, Chesapeake Bay, Baltimore, MD.

(a) *Definitions: Captain of the Port* means the Commander, Coast Guard Activities Baltimore or any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on his behalf.

(b) *Location.* The following area is a moving safety zone: All waters within 150 yards ahead of or 50 yards abeam or astern of the sailing vessel *Amerigo Vespucci,* while the vessel is operating on the Chesapeake Bay or its tributaries, north of the Maryland-Virginia border and south of latitude 39°35′00″.

(c) *Regulations.*

(1) All persons are required to comply with the general regulations governing safety zones in § 165.23 of this part.

(2) No person or vessel may enter or navigate within the regulated areas unless authorized to do so by the Captain of the Port. Any person or vessel authorized to enter the regulated areas must operate in strict conformance with any directions given by the Captain of the Port and leave the regulated area immediately if the Captain of the Port so orders.

(3) The Coast Guard vessels enforcing this section can be contacted on VHF Marine Band Radio, channels 13 and 16. The Captain of the Port can be contacted at telephone number (410) 576–2521 or 2693.

(4) The Captain of the Port will notify the public of any changes in the status of this zone by a Marine Safety Radio Broadcast on VHF–FM marine band radio, channel 22 (157.1 MHZ).

(d) *Enforcement period.* These regulations are enforced from 6 a.m. to 6 p.m. on June 21, 2000 and June 24, 2000 respectively.

Dated: May 16, 2000.

C.L. Miller,

Captain, U.S. Coast Guard, Captain of the Port of Baltimore.

[FR Doc. 00–13025 Filed 5–19–00; 12:38 pm]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 031–0237; FRL–6704–1]

Revision to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correction.

SUMMARY: In this direct final action, EPA is removing final limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP) that were published on January 13, 2000 (65 FR 2052).

DATES: This rule is effective July 24, 2000, without further notice unless EPA receive adverse comments by June 22, 2000. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Comments may be mailed to: Andrew Steckel, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rules are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street SW, Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

South Coast AQMD, 21865 E. Copley Dr., Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; Telephone: (415) 744–1160.

SUPPLEMENTARY INFORMATION: On August 5, 1988, South Coast Air Quality Management District (SCAQMD) adopted Rule 1109, Emissions of Oxides of Nitrogen from Process Heaters and Boilers in Petroleum Refineries. On March 26, 1990, California Air Resources Board (CARB) submitted Rule 1109 to EPA Region IX. On February 28, 1997 at 62 FR 9138, EPA proposed limited approval and limited disapproval of Rule 1109. On December 7, 1999, CARB sent EPA a request to withdraw the March 26, 1990 submittal because all the affected sources are now regulated instead by SCAQMD Regulation XX (Reclaim). EPA believes this is a reasonable request. Unfortunately, before receiving this request, EPA signed an action finalizing the limited approval and limited disapproval, which was published on January 13, 2000 at 65 FR 2052.

Therefore, the purpose of today's Direct Final action is to correct this error pursuant to section 110(k)(6) of the

Clean Air Act. Today's correction has no bearing on the other three rules that were finalized in our January 13, 2000 action. We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and, is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 9, 2000.

Keith Takata,

Acting Regional Administrator, Region IX.

Subpart F of part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart F—California

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

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

§ 52.220 [Amended]

2. Section 52.220 is amended by removing paragraph (c)(179)(H).

[FR Doc. 00–12785 Filed 5–22–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300507A FRL–6556–2]

RIN 2070–AB78

Vinclozolin; Order Denying Objections to Issuance of Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final order.

SUMMARY: EPA is denying the objections filed by the Natural Resources Defense Council to a final rule issued July 18, 1997, which announced the issuance of a tolerance for use of vinclozolin on succulent (snap) beans under section 408 of the Federal Food, Drug, and Cosmetic Act. The objections are denied because the tolerances have expired and consequently the objections are now moot.

DATES: This denial of the objections is effective on May 23, 2000.

FOR FURTHER INFORMATION CONTACT: Deanna Scher, Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–7043; fax number: (703) 308–7042; e-mail address: scher.deanna@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. However, this action is of particular interest to Earthjustice Legal Defense Fund, the organization that filed objections to the vinclozolin tolerance granted for snap beans in 1997 on behalf of Natural Resources Defense Council, American Federation of Labor and Congress of Industrial Organizations, Environmental Working Group, Pineros y Campesinos Unidos del Noroeste, and Northwest Coalition for Alternatives to Pesticides. This action is also of interest to BASF Corporation, the manufacturer of vinclozolin, as well as users of vinclozolin products. Since various different entities may be interested in this action, 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 in the **FOR FURTHER INFORMATION CONTACT** section.''

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''Federal Register—Environmental Documents.'' You can also go directly to the Federal Register listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300507A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background

A. What Action Is the Agency Taking?

On September 15, 1997, the Natural Resources Defense Council (''NRDC'') filed a series of objections and hearing requests in regard to EPA's issuance of a tolerance for the pesticide vinclozolin on succulent (snap) beans under section 408 of the Federal Food, Drug, and Cosmetic Act (''FFDCA''), 21 U.S.C. 346a. Because that tolerance expired on October 1, 1999, those objections are now moot and are denied on that ground.

B. What Is the Agency's Authority for Taking This Action?

Section 408 of the FFDCA authorizes the establishment by regulation of maximum permissible levels of pesticides in foods. Such regulations are

commonly referred to as ''tolerances.'' Without such a tolerance or an exemption from the requirement of a tolerance, a food containing a pesticide residue is ''adulterated'' under section 402 of the FFDCA and may not be legally moved in interstate commerce. 21 U.S.C. 331, 342. Monitoring and enforcement of pesticide tolerances are carried out by the U.S. Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA).

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes dietary exposure through food and drinking water and exposure other than dietary that occurs in non-occupational settings. In making safety determinations, EPA is required to consider, among other things, ''available information concerning the cumulative effects of the pesticide chemical residue and other substances that have a common mechanism of toxicity.'' 21 U.S.C. 346a(b)(2)(D)(v).

Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' 21 U.S.C. 346a(b)(2)(C). For pesticides that pose a threshold effect, EPA is directed to apply ''an additional tenfold margin of safety . . . to take into account potential pre- and post-natal toxicity and completeness of the data with respect to exposure and toxicity to infants and children.'' [hereinafter referred to as ''the children's safety factor''] Id. This provision additionally specifies that EPA ''may use a different margin of safety for the pesticide chemical residue only if, on the basis of reliable data, such margin will be safe for infants and children.'' Id.

The procedure for establishing tolerance regulations is generally initiated by pesticide manufacturers through the filing with EPA of a petition requesting the establishment of a tolerance. See 21 U.S.C. 346a(d). EPA is required to publish notice of this petition as well as a summary of the petition prepared by the petitioner. Id. 346a(d)(3). After evaluation of the petition, EPA may issue a final tolerance regulation, a proposed tolerance regulation, or an order denying the petition. Id. 346a(d)(4). Once a final tolerance regulation is issued, any person may, within 60 days, file written objections to any aspect of this regulation and may also request a hearing on issues of fact raised by the objections. Id. 346a(g).

EPA regulations specify that if a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor. 40 CFR 178.27. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested. 40 CFR 178.32. EPA's regulations specify that if no hearing is requested, or a requested hearing is denied, EPA will publish in the **Federal Register** its determination on each objection submitted. 40 CFR 178.37(a).

III. Regulatory and Procedural History

Vinclozolin is a fungicide produced by BASF Corporation. Vinclozolin is registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.*, for use on various fruits and vegetables and corresponding tolerances have been established under the FFDCA. For many years prior to 1997, vinclozolin was approved for use on succulent beans in several states under an emergency exemption under FIFRA. Prior to 1997, vinclozolin was also registered for use on turf in residential areas as well as parks, school grounds, and recreational areas.

In July 1997, in response to a petition submitted by BASF Corporation, EPA issued a tolerance for vinclozolin on succulent beans (62 FR 38464, July 18, 1997) (FRL–5727–9). That tolerance contained an expiration/revocation date of October 1, 1999. In connection with the establishment of the succulent bean tolerance, BASF requested that EPA terminate BASF's vinclozolin FIFRA registrations on tomatoes, grapes, and plums including plums grown for prunes as well as on residential turf and turf in parks, school grounds, and recreational areas (except for golf courses) and to revoke associated FFDCA tolerances. See 62 FR 43327, August 13, 1997.

On September 15, 1997, NRDC filed two objections to this tolerance and requested a hearing regarding several issues raised by its objections. NRDC's two objections were that EPA failed:

(1) To use the statutorily mandated tenfold safety factor to account for infants' and children's exposures to and toxic risks from vinclozolin; and

(2) To incorporate into its assessment of noncancer risks the available information on cumulative exposures to other similar chemicals. Objections at 16.

NRDC argued that EPA was required to use the tenfold safety factor because, among other reasons, there exist data gaps concerning vinclozolin's neuro-behavioral effects. Objections at 23–24.

On January 16, 1998, EPA provided an initial response to NRDC's hearing requests. EPA stated that an initial review of the hearing requests indicated that requests would have to be denied under EPA's regulations. EPA noted that the issues on which NRDC had sought a hearing ''rather than being factual claims accompanied by contentions as required by the regulations, are more in the nature of interrogatories or discovery requests.'' EPA made clear that ''[t]he purpose of an evidentiary hearing is to 'receive factual evidence relevant to material issues of fact raised by the objections,' FFDCA section 408(g)(2)(B), not to determine whether such evidence or issues of fact exist.'' Nonetheless, because NRDC claimed it had not had access to the full administrative record for the tolerance, EPA made that record available and gave NRDC 60 days to withdraw or revise its hearing requests. In response, NRDC, in a filing dated March 31, 1998, submitted revised hearing requests on its original objections.

Subsequent to EPA's initial response, several important developments occurred in connection with EPA's FIFRA reregistration efforts as to vinclozolin that impact the vinclozolin succulent bean tolerance. First, EPA scientists recommended that EPA use the additional tenfold safety factor for the protection of children in conducting its assessment of *in utero* acute risk to the human fetus. Second, BASF requested that EPA terminate FIFRA registrations for vinclozolin on stone fruits and strawberries and revoke the associated tolerances. See 63 FR 40710, June 30, 1998. Additionally, during the FIFRA reregistration process EPA had altered its conclusion regarding the dose at which no adverse effects had

occurred in a critical developmental study. On July 31, 1998, EPA requested both NRDC and BASF to comment on whether these developments affected the revised hearing requests. In separate letters dated September 9, 1998, BASF and NRDC took opposite positions on the viability of the hearing requests. NRDC contended that these developments ''have virtually no effect on the pending objections and hearing request.'' BASF argued that the hearing requests were either moot or not justified.

In August 1999, NRDC filed two declarations that NRDC asserted ''substantiated the data gaps described in NRDC's submissions.'' In a letter accompanying these declarations, NRDC stated that the declarations made an evidentiary hearing on its objections unnecessary. Accordingly, by that letter, NRDC withdrew its hearing requests and asked that EPA rule on its objections as submitted.

IV. Order Responding to Objections

The tolerance for vinclozolin on succulent beans to which NRDC filed objections has now expired. NRDC's objections to that tolerance are thus moot and are therefore denied.

The fact that EPA did not substantively respond to NRDC's objections during the existence of the tolerance does not mean that EPA did not consider these objections. To the contrary, NRDC's objections related directly to changes in the way EPA now assesses the risk vinclozolin poses. For example, the centerpiece of NRDC's objections was a challenge to EPA's decision in approving the tolerance that the additional tenfold factor for the protection of infants and children was unnecessary to assure to safety to infants and children. Following NRDC's objections, that decision has been revised on two occasions since the issuance of the succulent bean tolerance. First, as detailed in EPA's July 31, 1998 letter to NRDC, EPA scientists recommended that EPA use the additional tenfold safety factor for the protection of children in conducting its assessment of *in utero* acute risk to the human fetus. That position remained unsatisfactory to NRDC and its August 1999 declarations, in essence, argued that the tenfold factor should be applied more broadly. After considering the declarations and the attached scientific literature, EPA scientists recommended that due to, among other things, the lack of neurotoxicity data, the additional tenfold factor should be used in all risk assessments for vinclozolin.

V. Regulatory Assessment Requirements

As indicated previously, this action announces the Agency's final decision regarding an objection filed under section 408 of FFDCA. As such, this action is an adjudication and not a rule. The regulatory assessment requirements imposed on rulemakings do not, therefore, apply to this action.

VI. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule for purposes of 5 U.S.C. 804(3).

List of Subjects in 40 CFR Part 180

Environmental protection.

Dated: May 19, 2000.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 00–12962 Filed 5–22–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 209 and 230

[FRA Docket No. RSSL–98–1, Notice No. 5]

Inspection and Maintenance Standards for Steam Locomotives

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: On November 17, 1999, FRA published the final rule on inspection and maintenance of steam locomotives (65 FR 62828). The Inspection and Maintenance Standards for Steam Locomotives, Title 49, Code of Federal Regulations (CFR), parts 209 and 230, which took effect on January 18, 2000, sets forth new inspection and implementation requirements. FRA is holding a public meeting to explain the implementation schedule and general requirements for inspection and maintenance of steam locomotives under the rule. This meeting will also provide interested parties with the opportunity to discuss the rule and ask questions of the presenters. All parties interested in the new rule on inspection and maintenance of steam locomotives are invited to attend this meeting.

DATES: The meeting will be held on July 27, 2000, at 8 a.m.

ADDRESSES: The meeting will be held on July 27, 2000, in room 570 of the Bishop Henry Whipple Federal Building, One Federal Drive, Fort Snelling, Minnesota 55111–4007.

FOR FURTHER INFORMATION CONTACT:

George Scerbo, Motive Power & Equipment Specialist, Office of Safety, FRA, 1120 Vermont Avenue NW, Washington, DC 20590 (telephone 202–493–6249); or

Paul F. Byrnes, Trial Attorney, Office of Chief Counsel, FRA, 1120 Vermont Avenue NW, Washington, DC 20590 (202–493–6032).

Grady C. Cothen,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 00–12950 Filed 5–22–00; 8:45 am]

BILLING CODE 4910–06–P

Proposed Rules

Federal Register
Vol. 65, No. 100
Tuesday, May 23, 2000

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 LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–777]

RIN No. 1218–AB36

Ergonomics Program

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Proposed rule; request for comments on economic impact and informal public hearing.

SUMMARY: OSHA is using this document to provide information and analysis concerning the economic impacts of the proposed ergonomics rule (64 FR 65768, published November 23,1999) on State and local governments, the United States Postal Service, and railroads, and to seek comment on these economic impacts. This document supplements the Agency's Preliminary Economic Analysis and Initial Regulatory Flexibility Analysis of the economic impact of the Ergonomics Program Rule (Exhibit 28–1 in the OSHA docket), which did not directly address these employers. OSHA is also setting dates for a pre-hearing comment period, a public hearing, and a post-hearing comment period to address the economic impacts exclusively in these three industries.

The broader context for OSHA's actions can be found in the Notice of Proposed Rulemaking, published in the **Federal Register** of November 23, 1999 (64 FR 65768). The procedures in this continuation of the public hearing process will be the same as those used in the previous nine weeks of public hearings on the proposed ergonomics standard (See OSHA's home page at *www.osha.gov* or 65 FR 11948; March 7, 2000).

DATES: Notice of intention to appear at the informal public hearing: Notices of intention to appear at the informal public hearing must be postmarked by June 14, 2000. If you submit your notice of intention to appear by facsimile or electronically through OSHA's Internet site, you must transmit the notice by June 14, 2000.

Pre-hearing comments: Written comments addressing the economic impacts of the rule in these industries must be postmarked no later than June 22, 2000. If you submit comments by facsimile or electronically through OSHA's Internet site, you must transmit those comments by June 22, 2000.

Hearing Testimony and documentary evidence: If you will be requesting more than 10 minutes for your oral presentation at the hearing, you must submit the full testimony, postmarked no later than June 27, 2000, or if you will be submitting documentary evidence at the hearing, you must submit all of that evidence, postmarked no later than June 27, 2000.

Informal public hearing: The public hearing will be held in Washington, DC, beginning at 9 am, on July 7, 2000 and is expected to conclude that day.

Post-hearing comments: Written post-hearing comments must be postmarked no later than August 10, 2000. If you submit comments by facsimile or electronically through OHSA's Internet site, you must transmit those comments no later than August 10, 2000. The publication of this notice and the related public hearing do not affect the 90-day period established earlier for post-hearing submissions related to the ergonomics program proposed standard [65 FR 11948, March 7, 2000]. That period also ends August 10, 2000.

Addresses: Written comments: *Mail:* Submit two copies of written comments to: OSHA Docket Office, Docket No. S–777, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350.

Facsimile: If your written comments are 10 pages or less, you may fax them to the Docket Office. The OSHA Docket Office fax number is (202) 693–1648.

Electronic: You may also submit comments electronically through OSHA's Homepage at *www.osha.gov.* Please note, you may not attach materials such as studies or journal articles to your electronic comments. If you wish to include such materials, you must submit them separately in duplicate to the OSHA Docket Office at the address listed above. When submitting such materials to the OSHA Docket Office, you must clearly identify your electronic comments by name, date, and subject, so that we can attach them to your electronic comments.

Notice of intention to appear: Mail: Notices of intention to appear at the informal public hearing may be submitted by mail in quadruplicate to: Ms. Veneta Chatmon, OSHA Office of Public Affairs, Docket No. S–777, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–3647, Washington, DC 20210; Telephone: (202) 693–2119.

Facsimile: You may fax your notice of intention to appear to Ms. Chatmon at (202) 693–1634.

Electronic: You may also submit your notice of intention to appear electronically through OSHA's Homepage at *www.osha.gov.*

Hearing testimony and documentary evidence: You must submit in quadruplicate your hearing testimony and any documentary evidence you intend to present at the informal public hearing to Ms. Veneta Chatmon, OSHA Office of Public Affairs, Docket No. S–777, U.S. Department of Labor, Room N–3647, 200 Constitution Ave, NW., Washington, DC 20210. Telephone: (202) 693–2119, You may also submit your hearing testimony and documentary evidence on disk (3½ inch) in WP 5.1, 6.0, 6.1, 8.0 or ASCII, provided you also send the original hardcopy at the same time.

Informal public hearing: The one-day public hearing to be held in Washington, D.C. will be located in the Auditorium in the U.S. Department of Labor, Francis Perkins Building, 200 Constitution Avenue, NW, Washington, D.C. 20210.

FOR FURTHER INFORMATION, CONTACT: OSHA's Ergonomics Team at (202) 693–2116, or visit the OSHA Homepage at www.osha.gov.

SUPPLEMENTARY INFORMATION:

Supplement for State and Local Governments, Railroads and the U.S. Postal Service to the Summary of the Preliminary Economic Analysis and Initial Regulatory Flexibility Analysis of Proposed Ergonomics Program Standard

Introduction

OSHA has prepared this analysis of the costs, benefits, number of

establishments and employees affected, and potential impacts of OSHA's proposed ergonomics program standard on state and local governments in State-plan states, railroads, and the United States Postal Service. The methodology used to analyze the economic effects of the proposed standard for these sectors is the same as that used for other industries in OSHA's Preliminary Economic Analysis of the Proposed Ergonomics Program Standard (PEA) (Ex. 28–1). Where different sources of data or different assumptions are used for these three sectors, they are noted in a Technical Appendix (Ex. 28–15).

As indicated in the preamble to the ergonomics rule [64 FR 66054], OSHA standards do not apply to state and local governments, except in states that have voluntarily elected to adopt an OSHA State Plan. Because state and local governments in State-plan states can be expected to implement the rule, OSHA has analyzed the costs and impacts, as well as benefits, of the proposal for those state and local governments in State-plan states. Currently, California (a State-plan state) has its own ergonomics standard, and other states are in the process of developing their own. However, for simplicity, this summary analysis ignores the effects of existing and proposed state ergonomics regulations.

OSHA shares jurisdiction for occupational safety and health in the railroad industry with the Federal Railroad Administration. Although a number of railroad employees will not be covered by this standard, OSHA has not located data to identify what proportion of employees will be affected by the standard and has therefore decided to include all railroad workers in this analysis. This results in a substantial overestimate of the impact of the proposal on the railroad industry.

The US Postal Service (USPS) is now entirely under the jurisdiction of OSHA, and would thus be affected in the same ways as other private-sector employers.

Industrial Profile

Employment in These Three Industries: Based on Bureau of the Census data, there were 8.7 million state and local government employees in State-plan states in 1997. This total excludes those employees working in some governmental entities, notably hospitals, which have already been included in OSHA's PEA (Ex. 28–1) because they were included in the Census Bureau's *County Business Patterns* data used for that analysis (Ex. 28–2, p. vi). For the railroad industry, the Bureau of Labor Statistics reported that a total of 226,500 employees work for the railroads. Based on the USPS annual report, there were 904,636 employees, including non-career employees, in the Postal Service in 1998 [USPS, 1998].

Number of Musculoskeletal Disorders (MSDs) in These Three Industries: Using data on OSHA recordable MSDs provided to the record by the AFL–CIO [Ex. 32–339–1], and adjusting these data to accord with the scope of the proposed rule and OSHA's definition of MSDs, OSHA estimates that there were approximately 175,000 MSD cases (both lost workday and non-lost workday) among employees in general industry in state and local governments in State-plan states. OSHA estimates, using the same data and methodology for estimating the number of OSHA recordable MSDs that were used for all other private-sector businesses in the Preliminary Economic Analysis (Ex. 28–1), that there were a total of 1,250 MSDs in the railroad industry, of which 781 were lost workday MSDs. For the USPS, information on OSHA-recordable MSDs was not available; OSHA therefore estimated that the number of MSDs among postal workers was equal to the number of filed workers' compensation claims due to ''exertion'' (defined as including both overexertion and repetition cases) filed with the Federal Office of Workers' Compensation Programs in fiscal year 1996 (OWCP, 1996). There were 29,407 such cases in that year.

Number of Establishments in These Three Sectors: Establishment data are needed because portions of the proposed standard are triggered on an establishment basis. Establishment data are not available for any of these sectors; OSHA therefore used a variety of estimation techniques to calculate this information. OSHA estimated that there are 167,788 state and local government establishments, 4,802 railroad establishments, and 33,613 USPS establishments, including both post offices and classified stations. OSHA welcomes comment both on the number of establishments in these sectors, and on how, for regulatory purposes, establishments should be defined for state and local governments and for railroads. For example, if several state agencies work in a single building, would they be considered one or several establishments? Would the reporting structure applying to these agencies, *e.g.,* whether they report to separate branches of state government, affect this definition?

Benefits

OSHA's method for estimating the potential reductions in the number of MSDs the proposed standard would prevent and monetizing the benefits associated with this reduction are described in detail in Chapter IV of the PEA [Ex. 28–1]. The Agency estimates that, during the first ten years after implementation of the proposed standard, the proposal would prevent 476,000 covered MSDs among state and local government employees, nearly 1,900 covered MSDs among railroad employees, and approximately 94,000 covered MSDs among postal workers. The Agency estimates that the proposed standard will capture additional annual benefits of approximately $1 billion as a result of including workers in state and local government in State-plan states, the US Postal Service, and the railroads.

Costs of Compliance

Following the methodology presented in the Chapter V of the Preliminary Economic Analysis [Ex. 28–1], OSHA estimated the annual costs of compliance for these three industries. Table 1 presents the proposal's total annual costs and the total cost to employers for these three sectors. In total, these three industries add $418 million per year to the total costs (to society) of the rule, and $588 million per year to the costs of the proposal to employers. (The difference between these two costs is the cost of the proposal's Work Restriction Protection provisions, which is a cost to employers but does not represent a net cost to society.)

TABLE 1.—ANNUALIZED COSTS OF COMPLIANCE OF THE PROPOSAL TO SOCIETY AND TO EMPLOYERS IN THESE THREE INDUSTRIES

[In millions of dollars]

Industry	Annualized costs to—	
	Society	Employers
State and Local Governments in State-plan States	351	497
Railroads	8	9
United States Postal Service	59	82
Total	418	588

Economic Feasibility Analysis

As in the Preliminary Economic Analysis [Ex. 28–1], OSHA conducted a screening analysis of the potential impacts of the proposed standard on the before-tax profits and sales of the affected industries. A screening analysis

simply looks at the projected costs of the proposal as a percentage of the pre-tax profits and sales of the affected industries but does not actually predict the magnitude of the impacts of these costs on these before-tax profits or sales. Screening analyses are used to determine whether the compliance costs potentially associated with the proposed standard *could* lead to significant impacts on affected establishments under the two worst case scenarios (full cost passthrough and no cost passthrough). OSHA has used the same methodology in its screening analysis for the three industries of interest here. The actual impact of the proposed standard on the profit and sales of establishments in a given private industry will depend on the price elasticity of demand for the products or services produced by establishments in that industry, as discussed in detail in Chapter VI of the Preliminary Economic Analysis [Ex. 28–1]. For the public (government) sector, the impacts of the proposal's compliance costs would indicate the extent to which the government jurisdiction would have to raise taxes or cut back on government services.

According to the Census Bureau, total revenues to state and local government in the State-plan states in Fiscal Year 1996 were $763.3 billion [Census, 1996]. The annual costs of compliance for the proposed standard would therefore be equal to approximately 0.07 percent of these revenues. Increasing the amount of tax collected by these entities by $7 for every $10,000 of revenue currently collected would permit these entities to fully recover outlay. (For comparison, annual increases to payroll made to stay even with inflation are normally 15 to 20 times these costs.) Changes of this small magnitude will have little or no effect on the ability of state and local governments to deliver services to their constituents.

In the railroad industry, estimated annual revenues are $36.9 billion, and thus the costs of compliance with the standard are estimated to equal 0.03% of revenues under the worst-case scenario for price increases [DOT, 1999]. Robert Morris Associates [Ex. 28–10] estimated the pre-tax profit rate for the railroad industry in 1996 to be 12.2%. The standard's costs are therefore estimated to represent 0.21% of profits in the worst case scenario for profits. Even if the costs of compliance were taken entirely from profits (a highly unlikely scenario), they would only reduce, for example, $1,000,000 in profits to $997,900. Such a change in profits would have no measurable effect on the viability or competitive structure of the railroad industry.

The U.S.P.S. reported revenues in 1996 of $56.6 billion [USPS, 1998]. Therefore, the cost of complying with the proposal in SIC 43 would amount to 0.14% of revenue. Such a change in revenues is too small to significantly impact finances or raise questions of economic feasibility. For comparison, annual increases to payroll made to stay even with inflation are 10 to 15 times the annual costs of complying with the proposal. Such an impact will have no effect on the viability of the U.S. Postal Service.

Regulatory Flexibility Information

The Agency also examined the impact of the costs of the proposal on small governmental entities, *i.e.,* those governmental jurisdictions serving fewer than 50,000 people. According to the Census Bureau's employment and payroll survey, there were 17,289 governmental jurisdictions with fewer than 50,000 people in the State-plan states, employing a total of 2,312,873 workers. OSHA estimates that these jurisdictions include approximately 45,357 establishments, although defining these in the public sector is difficult, since no data on this point are available. Employing the assumptions used to analyze the costs of the standard to state and local governments, the estimated annualized cost of the proposal to small governmental entities would be $152 million. According to the Census' survey of government revenues, the revenues in governmental jurisdictions serving fewer than 50,000 people in State-plan states in 1996 were $101 billion. Therefore, the costs of compliance would be equal to 0.15 percent of the revenues of these entities.

The Small Business Administration defines ''small'' railroads as those employing fewer than 1500 employees in SIC 4013 and fewer than 500 in SIC 4011. For the purposes of this analysis, OSHA is classifying all local and regional railroads in the ''small'' category. Using the same methodology as that described above, OSHA estimates the costs of compliance for small railroad companies to be $896,233, or 0.03 of the revenues and 0.24 percent of the profits, of these companies.

Because the U.S. Postal Service represents the only large governmental entity serving all U.S. citizens, there are no small entities in SIC 43.

The impacts of the proposed standard on the small entities in the state and local government and railroad industries do not exceed OSHA's criteria for identifying significant impacts on small entities-compliance costs equal to more than 1 percent of revenues or 5 percent of profits.

References

BLS, 1997. Bureau of Labor Statistics, ''National Employment, Hours, and Earnings'', Found at: *http://146.142.4.24/cgi-bin/dsrv*

U.S. Bureau of the Census. Survey of Government Employment and Payroll, March 1997.

Data found at: *http://www.census.gov/govs/www/apes97loc.html*

U.S. Bureau of the Census. State and Local Finance Estimates, by State: 1995–96. Data found at: *http://www.census.gov/www/esti96.html*

U.S. Department of Transportation, Bureau of Transportation Statistics, *Transportation Statistics Annual Report,* 1999. Found at: *http://www.bts.gov/programs/transtu/tsar/tsar99/tsar99pt.html*

U.S. Postal Service, *1998 Annual Report.* Found at: *http://www.usps.gov/history/anrpt98/pdf.htm*

OWCP 1996. Federal Agency Injury and Illness Data Base, derived from Office of Workers' Compensation Programs Case Create data file, Department of Labor, Fiscal Year 1996. Formatted by OSHA Office of Management and Data Systems. (Unpublished).

Request for Comment

OSHA requests any additional, relevant data and information and comment on all aspects of this analysis, and on the data sources and methodology used for this analysis, as outlined in the Technical Appendix, Exhibit 28–15.

Authority: This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued under sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 1911.

Signed at Washington, DC, this 18th day of May, 2000.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 00–12983 Filed 5–19–00; 10:21 am]

BILLING CODE 4510–26–U

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2000–4]

Public Performance of Sound Recordings: Definition of a Service

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of inquiry.

SUMMARY: The Copyright Office is requesting comments on whether to grant a petition for rulemaking filed with the Copyright Office by the Digital Media Association. The petition requests an amendment to the rule that defines the term ''Service'' for purposes of the statutory license governing the public performance of sound recordings by means of digital audio transmissions. The requested amendment would expand the current definition of the term ''Service'' to state that a service is not interactive simply because it offers the consumer some degree of influence over the programming offered by the webcaster.

DATES: Written comments are due June 22, 2000. Reply comments are due July 7, 2000.

ADDRESSES: If sent by mail, an original and ten copies of comments and reply comments should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, they should be brought to: Office of the General Counsel, James Madison Memorial Building, Room LM–403, First and Independence Avenue SE., Washington, DC 20559–6000.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024; Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION:

Background

In 1995, Congress enacted the Digital Performance Right in Sound Recordings Act of 1995 (''DPRA''), Public Law 104–39, which created an exclusive right for copyright owners of sound recordings, subject to certain limitations, ''to perform the copyrighted work publicly by means of a digital audio transmission.'' 17 U.S.C. 106(6). Among the limitations on the performance was the creation of a licensing scheme for interactive digital audio services and a compulsory license for nonexempt, noninteractive, digital subscription transmissions, 17 U.S.C. 114(d)(2), (3) and (f) (1995). In addition, Congress exempted certain transmissions and retransmissions from the newly created performance right, 17 U.S.C. 114(d)(1) (1995).

In enacting the DPRA, Congress had two purposes: (1) To ensure that recording artists and record companies will be protected as new technologies affect the way in which their creative works are used; and (2) to create fair and efficient licensing mechanisms that address the complex issues facing copyright owners and copyright users as a result of the rapid growth of digital audio services. H.R. Rep. No. 105–796, at 79–80 (1998). It soon became apparent, however, that with the rapid proliferation of the use of the Internet as a transmission medium and the confusion surrounding the question of how the DPRA applied to some nonsubscription digital audio services, further legislation was needed to achieve these goals.

These changes were part of the Digital Millennium Copyright Act of 1998 (''DMCA''), Public Law 105–304, which, among other things, amended sections 112 and 114 of the Copyright Act to clarify that ''the digital sound recording performance right applies to nonsubscription digital audio services such as webcasting'' and to address the licensing issues raised by the webcasters. Staff of the House of Representatives Comm. on the Judiciary, 105th Cong., 2d Sess., Section-by-Section Analysis of H.R. 2281 as Passed by the United States House of Representatives on August 4, 1998 at 50 (Comm. Print, Serial No. 6, 1998). Specifically, Congress amended section 114 by creating a new statutory license for nonexempt eligible nonsubscription transmissions (e.g., webcasting) and nonexempt transmissions by preexisting satellite digital audio radio services.

17 U.S.C. 114(f) (1998).

For purposes of the DMCA, an ''eligible nonsubscription transmission'' is defined as:

> a non-interactive nonsubscription digital audio transmission not exempt under subsection (d)(1) that is made as part of a service that provides audio programming consisting, in whole or in part, of performances of sound recordings, including retransmissions of broadcast transmissions, if the primary purpose of the service is to provide to the public such audio or other entertainment programming, and the primary purpose of the service is not to sell, advertise, or promote particular products or services other than sound recordings, live concerts, or other music-related events.

17 U.S.C. 114(j)(6) (1998).

A key element of the definition is the requirement that the transmission must be ''non-interactive.'' Unless a service meets this criterion, it is ineligible for the statutory license and, therefore, must negotiate a voluntary agreement with the copyright owner(s) of the sound recordings before performing the works by means of digital audio transmissions.

17 U.S.C. 114(d)(3) (1998).

This distinction between interactive and non-interactive has always been critical to determining the rights of a copyright user under section 114, since Congress believed ''interactive services [were] most likely to have a significant impact on traditional record sales, and therefore pose[d] the greatest threat to the livelihoods of those whose income depends upon revenues derived from traditional record sales.'' S. Rep. No. 104–128, at 16 (1995). For this reason, interactive services are excluded from the limitations placed upon the new performance right and, consequently, must conduct arms-length negotiations with the copyright owners of the sound recordings before making a digital transmission of the works.

Congress first defined an ''interactive service'' in the DPRA as a service that:

> enables a member of the public to receive, on request, a transmission of a particular sound recording chosen by or on behalf of the recipient. The ability of individuals to request that particular sound recordings be performed for reception by the public at large does not make a service interactive. If an entity offers both interactive and non-interactive services (either concurrently or at different times), the non-interactive component shall not be treated as part of an interactive service.

17 U.S.C. 114(j)(4) (1995).

The second sentence was added to make clear that ''the term 'interactive service' is not intended to cover traditional practices engaged in by, for example, radio broadcast stations, through which individuals can ask the station to play a particular sound recording as part of the service's general programming available for reception by members of the public at large.'' S. Rep. No. 104–128, at 33–34 (1995).

In the DMCA, Congress expanded this definition to include further explanation of the type of activity that does not, in and of itself, make a service interactive. Specifically, the DMCA refined the definition of an ''interactive service'' as follows:

> (7) An ''interactive service'' is one that enables a member of the public to receive a transmission of a program specially created for the recipient, or on

request, a transmission of a particular sound recording, whether or not as part of a program, which is selected by or on behalf of the recipient. The ability of individuals to request that particular sound recordings be performed for reception by the public at large, or in the case of a subscription service, by all subscribers of the service, does not make a service interactive, if the programming on each channel of the service does not substantially consist of sound recordings that are performed within 1 hour of the request or at a time designated by either the transmitting entity or the individual making such request. If an entity offers both interactive and noninteractive services (either concurrently or at different times), the noninteractive component shall not be treated as part of an interactive service.

17 U.S.C. 114(j)(7) (1998).

In both cases, Congress sought to identify a service as interactive according to the amount of influence a member of the public would have on the selection and performance of a particular sound recording. Neither definition, however, draws a bright line delineating just how much input a member of the public may have upon the basic programming of the service. Consequently, the Digital Media Association (''DiMA'') seeks clarification on this point and a regulation that would prohibit designating a service as interactive merely because it offers a consumer some degree of influence over the streamed programming.

DiMA Petition

On April 17, 2000, DiMA [1] filed a petition for a rulemaking with the Copyright Office asking that the Office adopt a rule stating that a webcasting service does not become an interactive service merely because a consumer exerts some degree of influence over the streamed programming. DiMA seeks modification of the current regulation that defines a ''Service'' in order to better distinguish between activities that make a webcasting service non-interactive from those activities that make a service interactive. 37 CFR 201.35(b)(2). The amendment would add specific language to clarify that services which otherwise meet the requirements for the compulsory license set forth in section 114(f) do not become ineligible for the section 114 statutory license merely because they offer the consumer some degree of influence over the streamed programming. DiMA then proposes additional language which, in its view, would clarify that such a webcasting service is not an ''interactive service'' under section 114(j)(7) of the Copyright Act, provided that the service meet three criteria.

The text of the proposed amendment, to be added at the end of the current regulatory text, would read as follows:

A Service making transmissions that otherwise meet the requirements for the section 114(f) statutory license is not rendered ''interactive,'' and thus ineligible for the statutory license, simply because the consumer may express preferences to such Service as to the musical genres, artists and sound recordings that may be incorporated into the Service's music programming to the public. Such a Service is not ''interactive'' under section 114(j)(7), as long as: (i) its transmissions are made available to the public generally; (ii) the features offered by the Service do not enable the consumer to determine or learn in advance what sound recordings will be transmitted over the Service at any particular time; and (iii) its transmissions do not substantially consist of sound recordings performed within one hour of a request or at a time designated by the transmitting entity or the individual making the request.

DiMA Petition at 14, Attachment A—Proposed Rule.

In support of its petition, DiMA argues that the consumer input is merely a guide to program selections and that ''the actual transmissions of sound recordings over these consumer-influenced stations is generated by a computer according to programs and playlists created by the service, * * * such [that] listeners (including the 'creator(s)' of consumer-influenced stations) never have the ability to determine or know in advance whether any particular song or album will be performed or even when, over an extended period, any particular artist's works will appear.'' Petition at 12. In summary, DiMA argues that consumer-influenced stations comply with the spirit and intent of the law because the contribution of the consumer does not increase the risk that the consumer will make copies of the transmissions and displace the sale of a sound recording in the marketplace.

DiMA asserts that this issue must be resolved prior to the convening of the Copyright Arbitration Royalty Panel (''CARP'') which will determine the rates for the section 114 statutory license ''in order to define the appropriate bounds of the statutory license proceedings—which will be before this CARP.'' Petition at 2. DiMA requests this rulemaking for the purpose of defining the scope of the pending arbitration proceeding that will set rates and terms for the section 114 statutory license with respect to the known ''consumer-influenced webcasting technologies presently developed or employed by DiMA members.'' Petition at 6 n.3.

Comments

Under section 702 of the Copyright Act, title 17 of the United States Code, the Register of Copyrights can ''establish regulations not inconsistent with law for the administration of the functions and duties made the responsibility of the Register under this title.'' The question is whether a rulemaking proceeding is the appropriate forum for determining whether certain activities make a service ''interactive.'' While this may, at first glance, appear to be an endeavor similar to the subject of the pending rulemaking regarding definition of a ''service,'' [2] that proceeding presents a situation involving a clearly defined class of services (''any entity that transmits an AM/FM broadcast signal over a digital communications network such as the Internet''). **See** 65 FR 14227 (March 16, 2000). In contrast, it is debatable whether the DiMA petition has presented a clearly defined class of services. Moreover, assuming that this is an appropriate topic for a rulemaking proceeding, it is not clear whether there is sufficient information at this time to promulgate a regulation that could accurately distinguish between activities that are interactive and those that are not. The Office is concerned that it may be being asked to define a moving target.

Interested parties are invited to comment on: (1) Whether the Office should conduct the rulemaking on the subject addressed in the DiMA petition, and (2), if so, what issues should the Office address and what should the Office's conclusion be?

All interested parties are requested to file comments and replies with the Copyright Office in accordance with the information set forth in this document. The Copyright Office has posted the DiMA petition to its website (http://

[1] DiMA is a trade association that represents approximately 40 companies that engage in various forms of Internet multimedia activities, including activities that permit consumers to influence the programming streamed to the public over the Internet.

[2] On March 16, 2000, in response to a petition from the Recording Industry Association of America, the Office published a notice of proposed rulemaking seeking comment on whether to amend its regulation that defines a ''Service'' for purposes of the statutory license governing the public performance of sound recordings by means of digital audio transmissions, in order to clarify that transmissions of a broadcast signal over a digital communications network, such as the Internet, are not exempt from copyright liability under section 114(d)(1)(A) of the Copyright Act. 65 FR 14227 (March 16, 2000).

www.loc.gov/copyright/carp/DiMApetition.pdf) in order to facilitate the dissemination of the information presented in the petition.

Dated: May 18, 2000.

Marilyn Kretsinger,

Assistant General Counsel.

[FR Doc. 00–12970 Filed 5–22–00; 8:45 am]

BILLING CODE 1410–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AD–FRL–6703–6]

RIN 2060–AH25

Consolidated Emissions Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing this rule to improve and simplify emissions reporting. Many State and local agencies asked EPA to take this action to: consolidate reporting requirements; improve reporting efficiency; provide flexibility for data gathering and reporting; better explain to program managers and the public the need for a consistent inventory program. Consolidated reporting should increase the efficiency of the emission inventory program and provide more consistent and uniform data. EPA is seeking comment on the addition of reporting requirements for hazardous air pollutants (HAPs), and is proposing to add reporting requirements for particulate matter less than or equal to 2.5 micrometers ($PM^{2.5}$) and its precursors, and is proposing to reduce the reporting requirements for other criteria pollutants.

DATES: Submit comments on or before July 7, 2000.

ADDRESSES: Send comments (in duplicate, if possible) to: Air and Radiation Docket (6102), US Environmental Protection Agency, Attn: Docket No. A9840, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: William B. Kuykendal, Emissions, Monitoring, and Analysis Division (MD–14), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711, Telephone: (919) 541–5372, email: kuykendal.bill@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Authority

Sections 110(a)(2)(F), 110(a)(2)(K), 110(a)(2)(J),112, 182(a)(3)(B), 172(c)(3), 182(a)(3)(A), 187(a)(5), 301(a)

II. Background

Emission inventories are critical for the efforts of State, local, and federal agencies to attain and maintain the National Ambient Air Quality Standards (NAAQS) that EPA has established for criteria pollutants such as ozone, particulate matter, and carbon monoxide. Pursuant to its authority under section 110 of Title I of the Clean Air Act, EPA has long required State Implementation Plans (SIPs) to provide for the submission by States to EPA of emission inventories containing information regarding the emissions of criteria pollutants and their precursors (*e.g.*, volatile organic compounds (VOC)). EPA codified these requirements in 40 CFR part 51, subpart Q in 1979 and amended them in 1987.

The 1990 Amendments to the Clean Air Act (Act) revised many of the provisions of the Clean Air Act related to the attainment of the NAAQS and the protection of visibility in mandatory class I Federal areas (certain national parks and wilderness areas). These revisions establish new periodic emission inventory requirements applicable to certain areas that were designated nonattainment for certain pollutants. For example, section 182(a)(3)(A) required States to submit an emission inventory every three years (3-Year cycle) for ozone nonattainment areas beginning in 1993. Emissions reported must include VOC, nitrogen oxides (NO_x), and carbon monoxide (CO) for point, area, mobile (onroad and nonroad), and biogenic sources. Similarly, section 187(a)(5) requires States to submit an inventory every three years for CO nonattainment areas for the same source classes, except biogenic sources. EPA, however, did not codify these statutory requirements in the Code of Federal Regulations (CFR), but simply relied on the statutory language to implement them.

EPA has promulgated the NO_x SIP Call (§ 51.122) which calls on the effected States and the District of Columbia to submit SIP revisions providing for NO_X reductions in order to reduce the amount of ozone and ozone precursors transported between states. As part of that rule, EPA established reporting requirements to be included in the SIP revisions to be submitted by States in accordance with that action. [1]

This proposal consolidates the various reporting requirements that already exist into one place in the CFR, establishes new ones for $PM^{2.5}$ and regional haze, establishes new requirements for the statewide reporting of area source and mobile source emissions, includes the reporting requirements for the NO_X SIP call and asks for comments on new reporting for air toxics.

In this action, we refer to these types of inventories as the following:

- Point source inventories
- 3-Year cycle inventories
- NO_X SIP call inventories

States use data obtained through current annual reporting requirements (point source inventories) to record emissions from large sources and to track progress in reducing emissions from them. States get 3-Year cycle data from stationary sources with lower yearly emission levels and use them with the point source inventories to update their emission inventory every three years. States included in the NO_X SIP call will collect emissions data from the sources that are subject to control as a means of compliance. The Rule also takes advantage of data from Emission Statements available to States but not reported to EPA. As appropriate, States may use this data to meet their reporting requirements for point source data. Combining data from these activities gets the most information from sources with the least burden on the industry and less effort by State and local government agencies. By treating this information as a comprehensive emission inventory, States and local agencies may do the following:

- Measure their progress in reducing emissions.
- Have a tool they can use to support future trading programs.
- Set a baseline from which to do future planning.
- Answer the public's request for information.

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[1] EPA recognizes that in its recent decision, the United States Court of Appeals remanded certain issues regarding the NO_x SIP call to the Agency. See State of Michigan v. United States Environmental Protection Agency, No. 98–1497, United States Court of Appeals for the District of Columbia Circuit, slip op. issued March 3, 2000. Those issues, however, do not include the reporting requirements and the proposed consolidation of those requirements does not represent any prejudgment of the issues on remand to the Agency. EPA also recognizes that at this time the SIP call submission deadline has been stayed by the court and that the reporting requirements connected with the SIP call would not go into effect until the issues regarding the timing of SIP submissions are resolved.

We intend these inventories to help nonattainment areas develop and meet SIP requirements to reach the NAAQS.

States will need to inventory direct emissions of $PM_{2.5}$ and its precursors beginning in 2000 for the inventory year 1999. Since $PM_{2.5}$ is a NAAQS pollutant, we feel it is appropriate to begin collecting this emissions data.[2] States will also have to estimate direct emissions of primary particulate matter and $PM_{2.5}$ precursor emissions of condensible organics and ammonia. These $PM_{2.5}$ related data elements are needed as input to emission models. The Administrator has determined that States should submit statewide point source and 3-Year cycle inventories for PM_{10}, $PM_{2.5}$, and regional haze, consistent with the data requirements for O_3 and CO. Sections 110(a)(2)(F) and 172(c)3 provide ample statutory authority for this proposal as it relates to criteria pollutants. Section 110(a)(2)(F) provides that SIPs are to require ''as may be prescribed by the Administrator * * * (ii)periodic reports on the nature and amounts of emissions and emissions-related data from such sources.'' Section 172(c)(2)(3) provides that SIPs for nonattainment areas are to ''include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area, including such periodic revisions as the Administrator may determine necessary to assure that the requirements of this part are met.'' Additional statutory authority for emissions inventories from 1-hour ozone nonattainment areas is provided by section 182(a)(3)(A) and for emissions inventories from CO nonattainment areas is provided by section 187(a)(5). Section 301(a) provides authority for EPA to promulgate regulations embodying these provisions.

What Is the Purpose of the Consolidated Emissions Reporting Rule (CERR)?

The purpose of this rule is fourfold:

- Simplify emissions reporting,
- Offer options for data exchange
- Unify reporting dates for various categories of inventories, and
- Include reporting fine particulate matter and its precursors.

Previous requirements may have, at times, led to inefficient reporting. This rule provides options for reporting that allow States to match their ongoing activities with federal requirements and provides two options for transmitting data to EPA. This action also consolidates existing and new requirements of emission inventory programs for point sources and 3-Year cycles.

Who Will Have To Comply With the CERR Requirements?

This rule will apply to State and local air pollution control agencies. In the rule, we have adopted ''plain English language''. When ''you'' is used we mean the State or local agency. When ''we'' is used, EPA is meant.

How Are the CERR's Requirements Different From Existing Requirements?

(a) Additional Pollutants

Your State's inventory will add $PM_{2.5}$, and $PM_{2.5}$ precursors to the criteria pollutants.

(b) Geographic Coverage of Inventory

Your State now reports point source emissions statewide and emissions from area and mobile sources by nonattainment area. Your State's new inventory will be statewide by county for all source types, regardless of the attainment status.

(c) Frequency of Reporting

Your State will continue to report emissions from very large point sources (See Table 1) annually. Your State has a choice to report smaller point sources every three years or one-third of the sources each year. Your State will continue to report emissions from nonattainment areas for area and mobile sources every three years. Attainment areas will be required, for the first time, to report area and mobile source emissions.

How Will EPA Use the Data Collected Under This Reporting Requirement?

EPA uses emission inventories to form realistic public policy by the following:

- Modeling analyses,
- Projecting future control strategies,
- Tracking progress to meet requirements of the Clean Air Act,
- Calculating risk, and
- Responding to public inquiries.

Why Does EPA Want my State's Data?

Most of the information EPA needs is readily available from States because of the States' efforts to follow the Clean Air Act and its amendments. Using data States have already estimated or collected is a cheaper, more efficient way for us to get information to analyze. EPA can pull your data into a central repository of emissions data and extract what we need to fulfill our mandates.

How Will Others Use my Data Collected Under This Requirement?

Recent events have shown that some States need emissions data for areas outside their borders. Programs such as the Ozone Transport Assessment Group, the Ozone Transport Commission NO_X Baseline study, and the Grand Canyon Visibility Transport Commission demonstrated this need. As we recognize pollution as a regional problem, agencies will need multistate inventories more often to do such things as regional modeling.

We can meet our common needs by creating a central repository of data from State and local agencies, or a group of regional emissions databases. Such repositories offer the advantage of ready access and availability, common procedures for ensuring the quality of data, and an ability to meet the general needs of many potential users.

What Happens if EPA Doesn't Get my Agency's Emissions Data?

If we don't receive your emissions information at the time this rule specifies, we'll use whatever we have to produce emissions data for your agency's geographical area. Congress often mandates our analyses, so we depend on you to provide the data to complete them. If we don't get your data, we must find other ways to compile similar information.

We can estimate your agency's inventory by any of the following:

- National allocation (top down) methods,
- Projecting from previous data, or
- Using our best judgment.

For area and mobile sources, our methods usually represent your emissions reasonably well. For point sources, our estimates are less accurate. We have to estimate activity and plant parameters based on general knowledge rather than using your specific information.

The Act provides for other actions against a State if we do not receive your data. For example, if a State does not provide emissions data for NAAQS pollutants in nonattainment areas, EPA may take actions such as making findings of failure to submit, that are authorized in instances where a State fails to fulfill SIP obligations.

[2] In *American Trucking Assn.* v. *EPA,* No. 97–1440 (''ATA''), the court found that the record ''amply justified'' the need for fine particle standards, but remanded for further consideration of the levels of those standards. As EPA explained to the ATA Court in supplemental briefing on the remedy, the States should proceed with preparation of $PM_{2.5}$ emissions inventories because they will be necessary regardless of the levels of the fine particle standards. Accordingly, it is appropriate to proceed with this proposal regarding the collection of emission inventories.

What Additional Reporting Requirements Is EPA Considering?

We are seeking comment on the advisability of requiring new reporting of hazardous air pollutants (HAP) emissions.

In addition to the emission inventory provisions related to NAAQS pollutants, EPA is also considering requiring emission inventory reporting of HAPs. The requirements for HAP reporting would be imposed under authority of section 301(a) which authorizes the Administrator to prescribe such regulations as are necessary to carry out her functions under the Act. Several provisions in the CAA address HAPs and, by the nature of their requirements, imply the need for a HAP emissions inventory. Some examples follow.

Title V of the Act requires the Administrator to perform an oversight role with respect to State issued permits, including permits issued to major sources of HAP emissions. In order to determine whether that program is being appropriately and lawfully administrated by the States with respect to major HAP sources, a HAP emission inventory is necessary. You are developing programs to regulate HAPs and your Title V programs must include permits for all HAP sources emitting major quantities of HAPs (10 tons of one HAP or 25 tons of multiple HAPs per year). Thus, the Administrator believes including HAPs in the point source inventory is appropriate and necessary.

Section 112(n)(1)(A) requires us to report to Congress on the hazards to public health reasonably anticipated to occur as a result of emissions from electric utility steam generating units. Section 112(n)(1)(B) requires us to provide a report to Congress that considers the rate and mass of HAP emissions and the health and environmental effects of these emissions. Section 112(c)(6) requires a list of categories and subcategories of HAP sources subject to standards that account for not less than 90% of the aggregate emission of each pollutant. Although these new requirements do not include specific provisions requiring the compilation of HAP emissions inventories, they do introduce the need for such inventories in order to carry out the mandated statutes.

Section 112(k)(3) of the Act mandates that we develop a strategy to control emissions of HAPs from area sources in urban areas, and that the strategy achieve a reduction in the incidence of cancer attributable to exposure to HAPs emitted by stationary sources of not less than 75%, considering control of emissions from all stationary sources, as well as a substantial reduction in public health risks posed by HAPs from area sources. These mandated risk reductions are to be achieved by taking into account all emission control measures implemented by the Administrator or by the States under this or any other laws. A reliable HAP emission inventory covering all stationary sources of HAPs, including point and area sources, will be important in developing the mandated strategy and demonstrating that the strategy achieves the mandated risk reductions. It would be virtually impossible for us to identify and estimate HAP-specific emission reductions from all the federal and State rules that might result in HAP emission reductions. Therefore, we believe development of the strategy and assessment of progress in achieving the strategic goals requires that we develop and periodically update a HAP emission inventory. As presented in a recent **Federal Register** notice on the National Air Toxics Program: The Integrated Urban Strategy (64 FR 38706), we have designed an assessment approach that depends upon a reliable and periodically updated HAP emission inventory as a critical element in the assessments that support the development and evaluation of our urban strategy.

In addition to the Act requirements, the Government Performance and Results Act (GPRA) provides new emphasis on the need for HAP emission inventories, assessment of emissions reductions, and resulting reductions in risk. The GPRA, enacted in 1993, requires federal agencies to establish standards measuring their performance and effectiveness. It is the primary legislative mandate that requires agencies to set strategic goals, measure performance, and report on the degree to which goals are met.

For the EPA's air toxics program, the initial goal, by 2010, is to reduce air toxic emissions by 75% from 1993 levels to significantly reduce the risk to Americans of cancer and other serious adverse health effects caused by airborne toxics.

The EPA is working to further refine this goal so that in the future the air toxics program will protect human health and the environment by reducing the risks from air toxic emissions, particularly focusing on populations and areas disproportionately impacted which include, for example, urban areas, children at risk, and populations whose water and food are affected by persistent, bioaccumulating toxics.

Assessing progress in reducing cumulative risk from HAPs will require EPA to move away from a focus on assessing reductions from tons per year emitted, toward a focus on estimating reductions in cancer and non-cancer risks associated with lower emissions. In general, the choice of appropriate risk characterization approaches will be influenced by both the availability of data to support exposure assessments, and the level of detail and resolution needed to support the purpose of the assessment. EPA has identified four basic approaches for various assessments to evaluate progress with the air toxics program in reducing estimated risk. While each of the approaches relies on different types of data to represent exposures, all of these approaches rely on emission inventory information. The four basic approaches are: (1) toxicity weighting of emissions or ambient concentrations; (2) comparison between ambient concentration and risk-based concentrations (RBCs); (3) comparison between estimated exposure and RBCs that may yield quantitative estimates of risk; and (4) quantitative estimates of carcinogenic risk for individuals and populations. Approaches 1 and 2 are considered hazard-based approaches, in that they lack exposure or dispersion modeling, while approaches 3 and 4 are considered risk-based approaches in that they do incorporate exposure assessments and thereby can provide quantitative risk estimates. Approaches 3 and 4 require a detailed emission inventory that includes facility-specific detail (e.g., geographic location, stack heights).

You would be required to report HAP emissions for plants emitting at least 10 tons per year of one HAP or 25 tons per year of two or more HAPs. You would be required to report the same data elements now being submitted for criteria pollutants. You would provide these new data as part of the 3-year cycle inventory.

III. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is ''not significant'' and therefore not subject to review by the Office of Management and Budget (OMB) and to the Executive Order's requirements. We've determined this action is ''significant'' and therefore does require OMB review, based on the Order's definition of a ''significant'' regulatory action as one that is likely to result in a rule that may do any of the following:

1. Have an annual effect on the economy of $100 million or more or materially harm the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State and local governments or communities. The ICR (EPA ICR No. 0916.09) analysis shows that the costs to implement the Rule are less than $100 million. The analysis from the ICR shows total costs including proposed new requirements and start up are about $2 million.

2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency. The rule will increase data consistency, thus assisting other Agencies.

3. Materially alter the budgetary effect of entitlements, grants, user fees, or loan programs or the rights and obligations of those who receive them. Grant funds have been identified to support these activities.

4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles in the Executive Order. This rule will establish requirements for collecting and reporting new data to EPA and for this reason is deemed to be ''significant''.

B. Paperwork Reduction Act

The new information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*. Earlier the Office of Management and Budget approved the current information collection requirements in part 51 under the Paperwork Reduction Act and has assigned OMB control number 2060–0088 (EPA ICR No. 916.07). The Information Collection Request (ICR) document for the new information collection requirements has been prepared by EPA (ICR No. 0916.09) and a copy may be obtained from Sandy Farmer by mail at Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW, Washington, DC 20460, by email at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded from the internet at http://www.epa.gov/icr.

Today's action revises part 51 to consolidate old reporting requirements, adds new requirements for $PM_{2.5}$ and its precursors, adds new Statewide reporting requirements for area and mobile sources and asks for comments on newly recognized reporting needs for HAPs. Data from proposed new reporting will be used to:

- Support modeling analyses,
- Project future control strategies,
- Track progress to meet requirements of the Clean Air Act,
- Calculate risk, and
- Respond to public inquiries.

If finalized, this proposed rule would contain mandatory information reporting requirements (see 40 CFR 51.001); EPA considers all information reported under this proposed rule to be in the public domain and therefore cannot be treated as confidential.

The information in the following table was summarized from ICR 0916.09 and presents the reporting burden estimates.

BURDEN ESTIMATE SUMMARY

Reporting requirement	Number of respondents	Hours per respondent	Total hours per year	Total labor costs per year	Total annual capital costs	Total annual O&M costs
STATE RESPONDENTS						
Current	55	121	6,636	$205,420	$23,100	$6,600
Statewide Area and Mobile Source Reporting	*	717	20,971	553,897	.....	.....
$PM_{2.5}$ Reporting	55	42	2,310	61,006	.....	.....
HAP Reporting	*	700	14,350	378,976	.....	.....
Subtotal for States	.....	1,580	44,267	1,199,299	.....	.....
INDUSTRY RESPONDENTS						
HAP Reporting	7,500	3	22,500	844,000	.....	.....
Total	7,555	.....	66,767	2,043,299	23,100	6,600

*Varies.

The results in the table are broken down into State respondents and industry respondents. Within these groups, the reporting burden is further broken down into ''current requirements'',''Statewide area and mobile source reporting requirements'', ''$PM_{2.5}$ reporting requirements'', and ''HAP reporting requirements.'' This has been done to highlight the major areas changed by the CERR and to show the impact of these changes on the estimated burden.

To simplify the discussion, only the total hours per year will be discussed, however, the other burden components are related and the discussion would be similar. The burden hours estimated for all of the emission inventory reporting requirements in place prior to this proposed rule are labeled ''current'' and total 6,636 hours per year. Because of the streamlining and flexibility offered by the CERR, these ''current'' requirements are reduced from the original burden estimate of 11,448 hours per year; a savings of 4,812 hours per year. The new reporting requirements for Statewide area and mobile source reporting adds 20,971 hours per year and the $PM_{2.5}$ reporting requirements adds 2,310 hours per year. All of these burden changes are attributable to the State agency respondents.

Because the Environmental Protection Agency is requesting comment on the advisability of requiring HAP reporting, these costs are shown separately in the table. Note that there is a burden increment for both State and industry respondents. For the States, the new HAP reporting burden would add 14,350 hours per year. For industry, 22,500 hours per year would be added.

The total burden impact of the CERR, including the HAP reporting requirements, is estimated to be 66,767 hours per year for State and industry respondents. For the States alone, this total is 44,267 hours per year. It should be noted that, of this State total of 44,267 hours per year, approximately 20,000 hours per year are associated with start-up costs that will no longer be

incurred after the first three years. Thus, after three years, the estimated burden becomes about 24,000 hours per year for the States and about 47,000 hours per year for the States and industry.

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.

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.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after May 23, 2000 a comment to OMB is best assured of having its full effect if OMB receives it by June 22, 2000. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Impact on Small Entities

Under the Regulatory Flexibility Act we don't need to analyze this proposed regulation's flexibility because it doesn't affect small entities whose jurisdictions cover fewer than 50,000 people. Under 5 U.S.C. 605(b), I certify that this action won't significantly affect the economic well-being of a substantial number of small entities.

D. Executive Order 13045: Children's Health Protection

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

E. The National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rule making does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

F. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The additional work required by this rule takes advantage of information already in the possession of reporting groups. Using existing data leverages past work and reduces the burden of this rule. This conclusion is supported by the analysis done in support of EPA ICR No. 0916.09, OMB control number 2060–0088, which shows that total costs will be about $2 million. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

G. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in

the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office of Management and Budget (OMB), in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

EPA has concluded that this proposed rule will have federalism implications. This is based on the new requirements proposed by this rule that States will now have to report their emissions Statewide and will have to report $PM_{2.5}$ and $PM_{2.5}$ precursor emissions. Moreover, it also may impose substantial direct compliance costs on State or local governments, and the Federal government will not provide the funds necessary to pay those costs. Accordingly, EPA provides the following FSIS as required by section 6(b) of Executive Order 13132.

Federalism Summary Impact Statement (FSIS)

EPA convened a Work Group that included representatives from three States (CA, NJ, TX) in addition to EPA representatives. This Work Group met via conference calls over a period of about a year and a half beginning in early 1997. In addition, EPA maintained an active dialog with a larger number of States through the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO). The STAPPA/ALAPCO coordination involved two forums: 1. The Standing Air Emissions Work Group (SAEWG) and 2. The STAPPA/ALAPCO Emissions and Modeling committee. The coordination with the States through the STAPPA/ALAPCO process will continue throughout this rule making process. There is considerable support for this rule by the States. The States like having all of the emission inventory reporting requirements updated and in one consolidated rule. However, two principal concerns were raised by the States: 1. Does EPA have authority to collect HAP data?, and 2. Will the rule limit the States' ability to collect emission inventory data beyond the requirements of the rule? EPA has addressed both of these concerns. The first concern has been addressed by removing the HAP reporting requirements from the rule. Instead, these requirements are discussed in the preamble and EPA is requesting comments. The second concern was addressed by the nature of the rule. The rule only specifies information that should be reported to EPA. It does not limit the States from collecting whatever data they deem necessary for their emission inventory programs.

EPA consulted with State and local officials early in the process of developing the proposed regulation to permit them to have meaningful and timely input into its development. For the reasons discussed under the FSIS, EPA believes that it has complied with the requirements of Executive Order 13132.

H. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 12, 2000.

Carol M. Browner,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7410, 7414, 7421, 7470–7479, 7491, 7492, 7601, and 7602.

2. Part 51 is amended by adding subpart A to read as follows:

Subpart A—Emission Inventory Reporting Requirements

Sec.
51.1 For what sources must States do emissions reporting?

General Information for Inventory Preparers

51.5 Who is responsible for actions described in this subpart?
51.10 What tools are available to help prepare and report emissions data?
51.15 How does my State reduce the effort for reporting?

Specific Reporting Requirements

51.20 What data does my State need to report to EPA?
51.25 What are the emission thresholds that separate point and area sources?
51.30 What geographic area must my State's inventory cover?

51.35 When does my State report the data to EPA?
51.40 In what form should my State report the data to EPA?
51.45 Where should my State report the data?
Appendix A to Subpart A of Part 51—Tables and Glossary
Appendix B [Reserved]

Subpart A—Emission Inventory Reporting Requirements

§ 51.1 For what sources must States do emissions reporting?

Point sources for which States must report emissions annually under § 51.321 are defined as follows:

(a) For PM_{10}, $PM_{2.5}$, ammonia, sulfur oxides, VOC, and nitrogen oxides, any plant that actually emits at least 90.7 metric tons (100 tons) per year of any pollutant.

(b) For carbon monoxide, any plant that actually emits at least 907 metric tons (1000 tons) per year.

(c) For lead and lead compounds measured as elemental lead, any plant that actually emits at least 4.5 metric tons (5 tons) per year.

General Information for Inventory Preparers

§ 51.5 Who is responsible for actions described in this subpart?

State and local agencies whose geographic coverage include any point, area, mobile, or biogenic sources must inventory these sources and report this information to EPA.

§ 51.10 What tools are available to help prepare and report emissions data?

(a) We urge your State to use estimation procedures described in documents from the Emission Inventory Improvement Program (EIIP). These procedures are standardized and ranked according to relative uncertainty for each emission estimating technique. Using this guidance will enable others to use your State's data and be able to evaluate its quality and consistency with other data.

§ 51.15 How does my State reduce the effort for reporting?

(a) Compiling smaller point source (Type B) and 3-Year cycle inventories (see Appendix A, Table 1 of this subpart) means much more effort every three years, but your State may ease this workload spike by reporting one-third of your Type B point and 3-Year cycle sources each year. For these sources, your State will therefore have data from three successive years at any given time, rather than from the single year in which it is compiled. If your State needs to inventory the entire category of Type B point and 3-Year cycle sources in a single year, your State should report this data instead of a third of the estimates each year. If your State is a NO_X SIP Call state as defined in § 51.122, your State can't use these optional reporting frequencies for NO_X.

(b) If your State needs a base year emission inventory for a selected pollutant, your State must compile an inventory of all affected source categories for the specified year.

(c) If your State chooses the method of reporting one-third of your Type B sources and 3-Year cycle sources each year, your State must compile each year of the three year period identically. For example, if a process hasn't changed for a source category or individual plant, your State must use the same emission factors to calculate emissions for each year of the three year period. If your State has revised emission factors during the three years for a process that hasn't changed, resubmit previous year's data using the revised factor. If your State uses models to estimate emissions during any year of the three year period, make them identical for all three years.

Specific Reporting Requirements

§ 51.20 What data does my State need to report to EPA?

(a) *Pollutants.* Report emissions of the following:

(1) Sulfur oxides.
(2) VOC.
(3) Nitrogen oxides.
(4) Carbon monoxide.
(5) Lead and lead compounds.
(6) PM_{10}.
(7) $PM_{2.5}$.
(8) $PM_{2.5}$ precursors including ammonia.

(b) *Supporting information.* Report the data elements in Table 2a through 2d of appendix A to this subpart. Depending on the format you choose to report your State data, additional information not listed in Tables 2a through 2d will be required. Specific instructions for your State system format should be consulted. Any you don't report we'll have to generate with our own techniques. We may ask you for other data to meet special requirements.

(c) *Confidential data.* We don't consider the data in Tables 2a through 2d of appendix A to this subpart confidential, but some States limit release of this type of data. Any data that you submit to EPA under this rule will be considered in the public domain and cannot be treated as confidential. If Federal and State requirements are inconsistent, consult your EPA Regional Office for a final reconciliation.

§ 51.25 What are the emission thresholds that separate point and area sources?

(a)(1) Use the following actual emissions thresholds in attainment areas for point source reporting:

(i) Sources emitting at least 100 tpy for SO_X, VOC, NO_X, PM_{10}, $PM_{2.5}$.

(ii) Sources emitting at least 1000 tpy for CO.

(iii) Sources emitting at least 5 tpy for lead and lead compounds.

(2) See Table 1 of appendix A to this subpart for reporting thresholds on point sources in nonattainment areas.

(b) Your State has the option to inventory and report any stationary sources below these thresholds as point or area sources. If you have lower emission thresholds for point sources in your State, you should use them in reporting your emissions to EPA. See Table 1 of appendix A to this subpart for thresholds to report 3-Year cycle data and Tables 2a through 2d of appendix A to this subpart for data elements to report.

(c) In moderate PM_{10} nonattainment areas your State should inventory sources emitting at least 100 tpy (actual) as point sources. In serious PM_{10} nonattainment areas, this requirement applies to sources emitting at least 70 tpy (actual). Inventory $PM_{2.5}$ sources emitting at least 100 tpy (actual) as point sources. Inventory ammonia (a precursor to $PM_{2.5}$) as a point or area source.

§ 51.30 What geographic area must my State's inventory cover?

Because of the regional nature of these pollutants, your State's inventory must be statewide, regardless of an area's attainment status.

§ 51.35 When does my State report the data to EPA?

Your State must report data for the point source inventory and the 3-Year cycle inventory 17 months (by June 1) after the end of the calendar emission year. For example, your calender year 1999 inventory should be reported to EPA by June 1, 2001.

(a) *Point source.* As seen in Table 1 of appendix A to this subpart, your State should divide your point source inventory into two subsets—Type A source inventory and Type B source inventory—with different reporting frequencies. Report actual annual emissions from Type A point sources each calendar year. Review stack data (height, diameter, flow rate, temperature, velocity, and stack number) every three years and send in changes shown in Table 2a of appendix A to this subpart.

(b) *3-Year cycle.* (1) Your State should send EPA its annual and daily estimates

of actual emissions every three years for Type B point sources and area and mobile sources. For Type B point source inventories, include facilities not reported under the Type A source requirement. Area data includes sources below the thresholds for Type B point sources. Your State may report emissions from one-third of your State's Type B point sources, area, and mobile sources each year or from all sources every three years.

(2) Your State and your EPA Regional Office may tailor the reporting by selecting sources that most affect your agency.

(3) We encourage your State to integrate your State's own reporting requirements with EPA's.

(c) *NO_X SIP call.* For NO_X SIP call reporting, States must submit data for a required year no later than 12 months after the end of the calendar year for which the data are collected.

(1) For point, area and mobile sources within your State that your State is controlling to meet the NO_X reductions in § 51.121, submit estimates of NO_X annually for the NO_X ozone season as shown in Tables 2a, 2b and 2c of appendix A to this subpart.

(2) For all NO_X sources including point, area and mobile sources within your State, whether controlled or uncontrolled, submit estimates of NO_X emissions every three years for the NO_X ozone season as shown in Tables 2a, 2b and 2c of appendix A to this subpart.

(d) *Other.* Your State must establish an initial baseline for biogenic emissions. Your State need not submit more biogenic data unless land use characteristics or the methods for estimating emissions change. If either of these variables change, your State must report new biogenic emissions during the reporting period in the following year as shown in Table 2d of appendix A of this subpart.

§ 51.40 In what form should my State report the data to EPA?

(a) For better access by everyone, report emissions in your State in an electronic format using one of two options. You can find specific instructions for each option at the following Internet address: *http://www.epa.gov/ttn/chief/ei/eisubmit.html* These two options are as follows:

(1) Submit your State's data in the National Emissions Trends (NET) input format; or

(2) Submit your State's data in the Electronic Data Interchange (EDI) format.

(b) Some metadata describing your submission are not listed in Tables 2a through 2d of appendix A of this subpart are also required. Because electronic reporting technology continually changes, contact your EPA Regional Office for acceptable formats. You should consult specific instructions for your State system format to determine additional requirements not listed in Tables 2a through 2d.

§ 51.45 Where should my State report the data?

(a) If your State uses either the NET Input format or the EDI format, your State submits or reports data by either providing it to EPA directly or notifying EPA that it is available in the specified format and at a specific electronic location (FTP site).

(b) For the latest information on data reporting procedures, call our Info Chief help desk at (919)541–1000 or email to info.chief@epa.gov.

Appendix A to Subpart A of Part 51—Tables and Glossary

TABLE 1.—SUMMARY OF REQUIREMENTS FOR REPORTING EMISSION INVENTORIES

Provision	Point source inventory		NO_X SIP call inventory	3-Year inventory
	Type A sources [1]	Type B sources [1]		
CAA citation	Section 110(a)(2)(F)	Section 110(a)(2)(F), § 112	Section 110(a)(2)	Section 172(c)(3), Section 182(a)(3)(A), and Section 187(a)(5), § 112
1. Frequency of reporting	Annual	Every three years	Annual	Every three years
2. Estimating period	Annual	Annual and Daily [3]	Five month season	Annual and Daily [3]
3. Areas to which provision applies.	Entire U.S. (Statewide)	Entire U.S. (Statewide)	NO_X SIP Call areas (Statewide).	Entire U.S. (Statewide)
4. Pollutants and source size thresholds.	Pollutant	Pollutant	Pollutant	Pollutant Ozone NA areas: [4]
	tpy [2]	tpy [2]	tpy [2]	tpy [2]
	$SO_X \geq 2{,}500$	$SO_X \geq 100$	$NO_X \geq 100$	VOC ≥ 10,
	$NO_X \geq 2{,}500$	$NO_X \geq 100$,	Lesser thresholds to be defined by state	$NO_X \geq 100$,
	VOC ≥ 250	VOC ≥ 100		CO ≥ 100.
	$PM_{10} \geq 250$	$PM_{10} \geq 100$		CO NA areas: [4]
	$PM_{2.5} \geq 250$	$PM_{2.5} \geq 100$		CO ≥ 100.
	CO ≥ 2,500	CO ≥ 1,000		
	$NH_3 \geq 250$	Pb ≥ 5		
		$NH_3 \geq 100$		
			All sources not inventoried as point sources shall be inventoried as area or mobile sources and reported only if they are to be controlled to meet emission budget.	

TABLE 1.—SUMMARY OF REQUIREMENTS FOR REPORTING EMISSION INVENTORIES—Continued

Provision	Point source inventory		NO_X SIP call inventory	3-Year inventory
	Type A sources [1]	Type B sources [1]		
				PM–10 NA areas: [4] $PM_{10} \geq 70$ (serious), $PM_{10} \geq 100$ (moderate). $PM_{2.5}$ NA areas: [4] $PM_{2.5} \geq 100$. Ammonia may be inventoried as a point or area source. Inventory includes: • Point sources ≥ specified tpy. • Area sources < specified tpy. • Onroad mobile sources. • Nonroad mobile sources. • Biogenic sources.

[1] Previously, the Type A sources and the Type B sources together constituted the annual inventory (40 CFR Part 51.321–323); all such sources were required to report annually.
[2] tpy = tons per year.
[3] Ozone daily emissions = summer work weekday; CO daily emissions = winter work weekday; PM daily emissions = to be defined in consultation with Regional office.
[4] Thresholds apply to nonattainment areas only; remainder of State uses Type B Source thresholds to distinguish between point and area sources.

TABLE 2A.—DATA ELEMENTS THAT STATES MUST REPORT FOR POINT SOURCES

Data elements	Annual		Every 3 years		
	Entire U.S.	NO_X SIP call	Entire U.S.	NAA	NO_X SIP call
Emission levels (Tons per year)	VOC≥250 NO_X≥2500 SO_X≥2500 PM_{10}≥250 $PM_{2.5}$≥250 CO≥2500 NH_3≥ 250	NO_X≥100 Lesser thresholds to be defined by state	VOC≥100 NO_X≥100 SO_X≥100 PM_{10}≥100 $PM_{2.5}$≥100 CO≥1000 Pb≥5 NH_3≥100	[1] VOC≥10 [1] NO_X≥100 [1] PM_{10}≥70 [1] CO ≥100	NO_X≥100
1. Inventory year	✔	✔	✔	✔	✔
2. Inventory start date	✔		✔	✔	✔
3. Inventory end date	✔		✔	✔	✔
4. Inventory type	✔		✔	✔	✔
5. State FIPS code	✔	✔	✔	✔	✔
6. County FIPS code	✔	✔	✔	✔	✔
7. Federal ID code (plant)	✔	✔	✔	✔	✔
8. Federal ID code (point)	✔	✔	✔	✔	✔
9. Federal ID code (process)	✔	✔	✔	✔	✔
10. Site name	✔	✔	✔	✔	✔
11. Physical address	✔	✔	✔	✔	✔
12. SCC	✔	✔	✔	✔	✔
13. Heat content (fuel) (annual)	✔	✔	✔	✔	✔
14. Ash content (fuel) (annual)	✔		✔	✔	
15. Sulfur content (fuel) (annual)	✔		✔	✔	
16. Heat content (fuel) (seasonal)		✔			✔
17. Source of fuel heat content		✔			✔
18. Pollutant code	✔	✔	✔	✔	✔
19. Activity/throughput (annual)	✔	✔	✔	✔	✔
20. [2] Activity/throughput (daily)	✔	✔	✔	✔	✔
21. Activity/throughput (NO_X ozone season).		✔			✔
22. Source of activity/throughput (NO_X ozone season).		✔			✔
23. Work weekday emissions	✔	✔	✔	✔	✔
24. Annual emissions	✔		✔	✔	
25. NO_X Ozone season emissions		✔			✔
26. Area classification		✔			✔
27. Emission factor	✔	✔	✔	✔	✔
28. Source of emission factor		✔			✔

TABLE 2A.—DATA ELEMENTS THAT STATES MUST REPORT FOR POINT SOURCES—Continued

Data elements	Annual		Every 3 years		
	Entire U.S.	NO_X SIP call	Entire U.S.	NAA	NO_X SIP call
29. Winter throughput (%)	✔		✔	✔	
30. Spring throughput (%)	✔	✔	✔	✔	✔
31. Summer throughput (%)	✔	✔	✔	✔	✔
32. Fall throughput (%)	✔	✔	✔	✔	✔
33. Hr/day in operation	✔	✔	✔	✔	✔
34. Start time (hour)	✔	✔	✔	✔	✔
35. Day/wk in operation	✔	✔	✔	✔	✔
36. Wk/yr in operation	✔	✔	✔	✔	✔
37. Federal ID code (stack number)		✔	✔	✔	✔
38. X stack coordinate (latitude)			✔	✔	✔
39. Y stack coordinate (longitude)			✔	✔	✔
40. Stack height				✔	✔
41. Stack diameter				✔	✔
42. Exit gas temperature				✔	✔
43. Exit gas velocity				✔	✔
44. Exit gas flow rate				✔	✔
45. SIC/NAICS			✔	✔	✔
46. Design capacity			✔	✔	✔
47. Maximum nameplate capacity			✔	✔	✔
48. Primary control eff (%)			✔	✔	✔
49. Secondary ctl eff (%)			✔	✔	✔
50. Control device type			✔	✔	✔
51. Rule effectiveness (%)			✔	✔	

[1] Both daily and annual emission estimates required.
[2] May be derived from annual or seasonal throughput.

TABLE 2B.—DATA ELEMENTS THAT STATES MUST REPORT FOR AREA AND NONROAD SOURCES

Data elements	Annual		Every 3 years		
	Entire U.S.	[1] NO_X SIP Call	Entire U.S.	NAA	NO_X SIP call
Emissions levels (Tons per year)			[2] VOC <10 [2] NO_X <100 [2] PM_{10} <100 [2] $PM_{2.5}$ <100 [2] CO <100 [2] NH_3 <100		NO_X <100
1. Inventory year		✔	✔		✔
2. Inventory start date		✔	✔		✔
3. Inventory end date		✔	✔		✔
4. Inventory type		✔	✔		✔
5. State FIPS code		✔	✔		✔
6. County FIPS code		✔	✔		✔
7. SCC		✔	✔		✔
8. Emission factor		✔	✔		✔
9. Source of emission factor		✔			✔
10. Activity/throughput level (annual)		✔	✔		✔
11. Activity/throughput (NO_X ozone season).		✔			✔
12. Source of activity/throughput (NO_X ozone season).		✔			✔
13. Total capture/control efficiency (%).		✔	✔		✔
14. Rule effectiveness (%)		✔	✔		✔
15. Rule penetration (%)		✔	✔		✔
16. Pollutant code		✔	✔		✔
17. Summer/winter work weekday emissions.		✔	✔		✔
18. Annual emissions		✔	✔		✔
19. NO_X ozone season emissions		✔			✔
20. Source of emissions data		✔			✔
21. Winter throughput (%)		✔	✔		✔
22. Spring throughput (%)		✔	✔		✔
23. Summer throughput (%)		✔	✔		✔
24. Fall throughput (%)		✔	✔		✔
25. Hr/day in operations		✔	✔		✔
26. Day/wk in operations		✔	✔		✔

TABLE 2B.—DATA ELEMENTS THAT STATES MUST REPORT FOR AREA AND NONROAD SOURCES—Continued

Data elements	Annual		Every 3 years		
	Entire U.S.	[1] NO_X SIP Call	Entire U.S.	NAA	NO_X SIP call
27. Wk/yr in operations		✔	✔		✔

[1] You are only required to report sources within your State if they are CONTROLLED to meet NO_X reductions under § 51.121.
[2] Both daily and annual emission estimates required.

TABLE 2C.—DATA ELEMENTS THAT STATES MUST REPORT FOR ONROAD MOBILE SOURCES

Data elements	Annual		Every 3 years		
	Entire U.S.	[1] NO_X SIP call	Entire U.S.	NAA	NO_X SIP call
1. Inventory year		✔	✔		✔
2. Inventory start date		✔	✔		✔
3. Inventory end date		✔	✔		✔
4. Inventory type		✔	✔		✔
5. State FIPS code		✔	✔		✔
6. County FIPS code		✔	✔		✔
7. SCC		✔	✔		✔
8. [2] Emission factor		✔	✔		✔
9. Activity (VMT by Roadway Class)		✔	✔		✔
10. Source of activity data		✔			✔
11. Pollutant code		✔	✔		✔
12. Summer/winter work weekday emissions		✔	✔		✔
13. Annual emissions			✔		
14. NO_X Ozone season emissions		✔			✔
15. Source of emissions data		✔			✔

[1] You are only required to report Onroad Mobile sources within your State if they are CONTROLLED to meet NO_X reductions under § 51.121.
[2] Both daily and annual emission estimates required.

TABLE 2D.—DATA ELEMENTS THAT STATES MUST REPORT FOR BIOGENIC SOURCES

Data elements	Annual	Every 3 years	
	Entire U.S.	Entire U.S.	NAA
1. Inventory year		✔	
2. Inventory start date		✔	
3. Inventory end date		✔	
4. Inventory type		✔	
5. State FIPS code		✔	
6. County FIPS code		✔	
7. SCC		✔	
8. Pollutant code		✔	
9. Summer/winter work weekday emissions		✔	
10. Annual emissions		✔	

Glossary to Appendix A

Activity rate/throughput (annual)—A measurable factor or parameter that relates directly or indirectly to the emissions of an air pollution source. Depending on the type of source category, activity information may refer to the amount of fuel combusted, raw material processed, product manufactured, or material handled or processed. It may also refer to population, employment, number of units, or miles traveled. Activity information is typically the value that is multiplied against an emission factor to generate an emissions estimate.

Activity rate/throughput (daily)—The beginning and ending dates and times that define the emissions period used to estimate the daily activity rate/throughput.

Area classification—The Clean Air Act classification of the nonattainment area containing the reporting source (transitional, marginal, moderate, serious, severe, extreme).

Area sources—Area sources collectively represent individual sources that have not been inventoried as specific point, mobile, or biogenic sources. These individual sources treated collectively as area sources are typically too small, numerous, or difficult to inventory using the methods for the other classes of sources.

Annual emissions—Actual emissions for a plant, point, or process—measured or calculated that represent a calendar year.

Ash content—Inert residual portion of a fuel.

Biogenic sources—Biogenic emissions are all pollutants emitted from non-anthropogenic sources. Example sources include trees and vegetation, oil and gas seeps, and microbial activity.

Control device type—The name of the type of control device (*e.g.,* wet scrubber, flaring, or process change).

County/parish/reservation (FIPS)—Federal Information Placement System (FIPS). FIPS is the system of unique numeric codes the government developed to identify States, counties, towns, and townships for the entire United States, Puerto Rico, and Guam.

Day/wk in operations—Days per week that the emitting process operates.

Design capacity—A measure of the size of a point source, based on the reported maximum continuous capacity of the unit.

Emission factor—Ratio relating emissions of a specific pollutant to an activity or material throughput level.

Exit gas flow rate—Numeric value of stack gas's flow rate.

Exit gas temperature—Numeric value of an exit gas stream's temperature.

Exit gas velocity—Numeric value of an exit gas stream's velocity.

Fall throughput (%)—Part of the throughput for the three Fall months (September, October, November). This expresses part of the annual activity information based on four seasons—typically spring, summer, fall, and winter. It can be a percentage of the annual activity (*e.g.,* production in summer is 40% of the year's production) or units of the activity (*e.g.,* out of 600 units produced, spring =150 units, summer = 250 units, fall = 150 units, and winter = 50 units).

Federal ID code (plant)—Unique code for a plant or facility, containing one or more pollutant-emitting sources.

Federal ID code (point)—Unique code for the point of generation of emissions, typically a physical piece of equipment.

Federal ID code (process)—Unique code for the process generating the emissions, typically a description of a process.

Federal ID code (stack number)—Unique code for the point where emissions from one or more processes release into the atmosphere.

Heat content—The amount of thermal heat energy in a solid, liquid, or gaseous fuel. Fuel heat content is typically expressed in units of Btu/lb of fuel, Btu/gal of fuel, joules/kg of fuel, etc.

Hr/day in operations—Hours per day that the emitting process operates.

Inventory end date—Last day of the inventory period.

Inventory start date—First day of the inventory period.

Inventory type—Type of inventory represented by data (*i.e.,* point, 3-Year cycle, daily).

Inventory year—The calendar year for which you calculated emissions estimates.

Maximum nameplate capacity—A measure of a unit's size that the manufacturer puts on the unit's nameplate.

Metadata—Data that describes how and when and by whom a particular set of data was collected, and how the data is formatted. Metadata are essential for understanding information stored in data bases.

Mobile source—A motor vehicle, nonroad engine or nonroad vehicle.

- A ''motor vehicle'' is any self-propelled vehicle used to carry people or property on a street or highway.
- A ''nonroad engine'' is an internal combustion engine (including fuel system) that is not used in a motor vehicle or vehicle only used for competition, or that is not affected by sections 111 or 202 of the CAA.
- A ''nonroad vehicle'' is a vehicle that is run by a nonroad engine and that is not a motor vehicle or a vehicle only used for competition.

NO_X ozone season emissions—Actual ozone season emissions for a plant, point, or process, either measured or calculated. Ozone season emissions for NO_X SIP Call are the emissions between May 1 and September 30. (Note that 40 CFR Part 58 contains a different definition for ozone season monitoring.)

Physical address—Street address of a facility.

Point source—Point sources are large, stationary (non-mobile), identifiable sources of emissions that release pollutants into the atmosphere. State or local air regulatory agencies define a plant as a point source whenever it annually emits more than a specified amount of a given pollutant; these ''cutoff'' levels definitions vary among State and local agencies. A stationary source which emits less than a ''cutoff'' is an area source.

Pollutant code—A unique code for each reported pollutant assigned in the EIIP Data Model. The model uses character names for criteria pollutants and Chemical Abstracts Service (CAS) numbers for all other pollutants. You may be using SAROAD codes for pollutants, but you should be able to map them to the pollutant codes in the EIIP Data Model.

Rule effectiveness (RE)—How well a regulatory program achieves all possible emission reductions. This rating reflects the assumption that controls typically aren't 100 percent effective because of equipment downtime, upsets, decreases in control efficiencies, and other deficiencies in emission estimates. RE adjusts the control efficiency.

Rule penetration—The percentage of an area source category covered by an applicable regulation.

SCC—Source category code. A process-level code that describes the equipment or operation which is emitting pollutants.

Seasonal activity rate/throughput—A measurable factor or parameter that relates directly or indirectly to the pollutant season emissions of an air pollution source. Depending on the type of source category, activity information may refer to the amount of fuel combusted, raw material processed, product manufactured, or material handled or processed. It may also refer to population, employment, number of units, or miles traveled. Activity information is typically the value that is multiplied against an emission factor to generate an emissions estimate.

Seasonal fuel heat content—The amount of thermal heat energy in a solid, liquid, or gaseous fuel used during the pollutant season. Fuel heat content is typically expressed in units of Btu/lb of fuel, Btu/gal of fuel, joules/kg of fuel, etc.

Secondary control eff (%)—The emission reduction efficiency of a secondary control device. Control efficiency is usually expressed as a percentage or in tenths.

Source of activity rate/throughput data—Source of data from which you got the activity rate/throughput.

Source of emission factor—Source of data from which you got the emission factor.

Source of fuel heat content data—Source of data from which you got the fuel heat content.

SIC/NAICS—Standard Industrial Classification code. NAICS (North American Industry Classification System) codes will replace SIC codes. U.S. Department of Commerce's code for businesses by products or services.

Site name—The name of the facility.

Spring throughput (%)—Part of throughput or activity for the three spring months (March, April, May). See the definition of Fall Throughput.

Stack diameter—A stack's inner physical diameter.

Stack height—A stack's physical height above the surrounding terrain.

Start time (hour)—Start time (if available) that you used to calculate the emissions estimates.

State/providence/territory (FIPS)—Federal Information Placement System (FIPS). FIPS is the system of unique numeric codes the government developed to identify States, counties, towns, and townships for the entire United States, Puerto Rico, and Guam.

Sulfur content—Sulfur content of a fuel, usually expressed as a percentage.

Summer throughput (%)—Part of throughput or activity for the three summer months (June, July, August). See the definition of Fall Throughput.

Summer/winter work weekday emissions—Average day's emissions for a typical day. Ozone daily emissions = summer work weekday; CO and PM daily emissions = winter work weekday.

Total capture/control efficiency—The emission reduction efficiency of a primary control device, which shows

the amount controls or material changes reduce a particular pollutant from a process' emissions. Control efficiency is usually expressed as a percentage or in tenths.

Type A source—Very large point sources defined by emission thresholds listed in Table 1.

Type B source—Smaller point sources defined by emission thresholds listed in Table 1.

VMT by Roadway Class—Vehicle miles traveled (VMT) expresses vehicle activity and is used with emission factors. The emission factors are usually expressed in terms of grams per mile of travel. Because VMT doesn't correlate directly to emissions that occur while the vehicle isn't moving, these non-moving emissions are incorporated into the emission factors in EPA's Mobile Model.

Winter throughput (%)—Part of throughput or activity for the three winter months (December, January, February). See the definition of Fall Throughput.

Wk/yr in operation—Weeks per year that the emitting process operates.

Work weekday—Any day of the week except Saturday or Sunday.

X stack coordinate (latitude)—An object's east-west geographical coordinate. Y stack coordinate (longitude)—An object's north-south geographical coordinate.

Appendix B [Reserved]

Subpart Q—[Amended]

3. Section 51.322 is revised to read as follows:

§ 51.322 Sources subject to emissions reporting.

The requirements for reporting emissions data under the plan are in § 51.1 of this part.

4. Section 51.323 is revised to read as follows:

§ 51.323 Reportable emissions data and information.

The requirements for reportable emissions data and information under the plan are in subpart A of this part 51.

[FR Doc. 00–12787 Filed 5–22–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 031–0237; FRL–6704–2]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District (SCAQMD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to remove revisions to the SCAQMD portion of the California State Implementation Plan (SIP). These revisions concern Emissions of Oxides of Nitrogen from Process Heaters and Boilers in Petroleum Refineries. We are proposing to remove a final limited approval and limited disapproval of a local rule that was published on January 13, 2000 (65 FR 2052).

DATES: Any comments on this proposal must arrive by June 22. 2000.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted rule revisions at our Region IX office during normal business hours. You may also see copies of the submitted rule revisions at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812

South Coast AQMD, 21865 E. Copley Dr., Diamond Bar, CA 91765–4182

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1160.

SUPPLEMENTARY INFORMATION: This proposal addresses the South Coast Air Quality Management District (SCAQMD) adopted Rule 1109, Emissions of Oxides of Nitrogen from Process Heaters and Boilers in Petroleum Refineries. In the Rules and Regulations section of this **Federal Register**, we are removing our previous limited approval and limited disapproval of this local rule in a direct final action without prior proposal because we believe this removal is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule removal and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, Regulatory Planning and Review.

B. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because it is does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting

elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's proposed action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 9, 2000.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 00–12786 Filed 5–22–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94–129; DA 00–1093]

Common Carrier Bureau Asks Parties To Refresh Record and Seek Additional Comment on Proposal To Require Resellers To Obtain Carrier Identification Codes

AGENCY: Federal Communications Commission.

ACTION: Solicitation of supplemental comments.

SUMMARY: In a Further Notice in this proceeding released on December 23, 1998, the Commission sought comment on three proposals to address ''soft slamming'' and carrier identification problems arising from the shared use of carrier identification codes (CICs) by facilities-based carriers and switchless resellers of their services. The first proposal—requiring resellers to obtain their own CICs—garnered both strong support and opposition among commenters. Supporters view it as a

cost-effective and administratively simple solution to the problems identified by the Commission, whereas opponents raise a number of concerns regarding its potential impact on carriers. In order to focus the record, we invite interested parties to refresh the record and to submit additional comments on a number of specific issues regarding the proposal that resellers obtain their own CICs.

DATES: Submit comments on or before June 6, 2000 and reply comments on or before June 13, 2000.

ADDRESSES: See Supplementary Information section for where and how to file comments.

FOR FURTHER INFORMATION CONTACT: William J. Scher or Dana Walton-Bradford (202) 418–7400 TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: In a *Further Notice,* 64 FR 7763 (February 16, 1999), in this proceeding released on December 23, 1998, the Commission sought comment on three proposals to address ''soft slamming'' and carrier identification problems arising from the shared use of carrier identification codes (CICs) by facilities-based carriers and switchless resellers of their services. The first proposal—requiring resellers to obtain their own CICs—garnered both strong support and opposition among commenters. Supporters view it as a cost-effective and administratively simple solution to the problems identified by the Commission, whereas opponents raise a number of concerns regarding its potential impact on carriers. In order to focus the record, we invite interested parties to refresh the record and to submit additional comments on a number of specific issues regarding the proposal that resellers obtain their own CICs.

First, we seek comment on what it would cost resellers to purchase translations access alone, as distinguished from Feature Group D access, and on whether the Commission should require that this functionality be offered separately. We encourage commenters to provide specific estimates of costs on both a per-LATA and a nationwide basis.

Second, we request information on whether there are functionally-equivalent services that, in conjunction with elimination of the current NANPA requirement that carriers must purchase Feature Group D access to obtain a CIC, would make it possible for switchless resellers to use CICs without also purchasing translations access directly. If so, can and should the Commission require the purchase of such services by underlying carriers? To what extent are underlying carriers and resellers already taking advantage of any such services, and how are the costs allocated between them? What are the potential drawbacks of such an approach?

Third, we request additional comment on the network, operations support systems, and/or other modifications that underlying carriers and LECs would have to make to accommodate the use of switchless reseller CICs, the likely costs of any such modifications, and the time required to carry them out. We seek comment on whether the Commission should require any such modifications if it adopts the proposed CIC requirement, or whether market incentives are sufficient to encourage carriers to make them of their own accord. Again, we encourage commenters to submit empirical data with their comments, and to provide specific estimates of costs on both a per-LATA and a nationwide basis.

Fourth, we seek additional comment on whether the proposed CIC requirement would be affordable for switchless resellers. We seek comment on whether there are specific measures that would mitigate the financial burden of the proposed CIC requirement on switchless resellers. We also ask commenters to address whether the subject proposal would create additional competitive benefits or disadvantages for resellers, such as giving them greater parity with facilities-based carriers in the timing of customer access to long distance services, or making it more expensive and time-consuming for them to change underlying carriers.

Fifth, we request additional comment on the specific dimensions of soft slamming and the carrier identification problems involving resellers identified in the *Further Notice.* In particular, we request commenters to address—and to submit empirical data, to the greatest extent possible—concerning the percentage of slamming complaints that involve soft slams and the percentage that involve consumers whose preferred carrier freeze protections have been bypassed.

Finally, we seek additional comment on whether this proposal would create a significant threat of CIC exhaustion, and whether modifications to existing Commission policy restricting CIC assignments may be necessary to accommodate the assignment of CICs to resellers.

Filing Procedures

This will continue to be a permit-but-disclose proceeding for purposes of the Commission's *ex parte* rules. Pursuant to § 1.1200 and § 1.1206 of the Commission's rules, interested parties may file supplemental filings on or before June 6, 2000, and replies to supplemental filings on or before June 13, 2000. Rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules. Such filings may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (May 1, 1998).

Filings submitted through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic filings by Internet e-mail. To receive e-mail filing instructions, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address.'' A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. Parties also must send a paper copy of their filings to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street S.W., Room 5–B540, Washington, D.C. 20554. In addition, parties filing supplemental filings must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS), 1231 20th Street, NW, Washington, DC 20036, telephone 202–857–3800, facsimile 202–857–3805.

Dated: May 18, 2000.

Irene M. Flannery,

Chief, Accounting Policy Division.

[FR Doc. 00–12981 Filed 5–22–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF90

Endangered and Threatened Wildlife and Plants; Proposed Rule To List the Mississippi Gopher Frog Distinct Population Segment of Dusky Gopher Frog as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the Fish and Wildlife Service, propose to list the Mississippi gopher frog distinct population segment of the dusky gopher frog (*Rana capito sevosa*) as an endangered species under the authority of the Endangered Species Act of 1973, as amended (Act). Historically, the Mississippi gopher frog occurred in at least nine counties or parishes across Louisiana, Mississippi, and Alabama, ranging from east of the Mississippi River in Louisiana to the Mobile River delta in Alabama. Today, it is known from only one site in Harrison County, Mississippi. This last surviving population is threatened by habitat destruction and degradation from a proposed housing development on property within 200 meters (m) (656 feet (ft)) of its only remaining breeding pond; the construction and expansion of two highways in the vicinity of the pond; and a proposed reservoir. These actions pose threats to the terrestrial habitat of adult frogs and their ability to offset mortality rates with reproduction and recruitment. This proposed rule, if made final, would extend the Act's protection to the Mississippi gopher frog distinct population segment.

DATES: Send your comments to reach us on or before July 24, 2000. We will not consider comments received after the above date in making our decision on the proposed rule. We must receive requests for public hearings by July 7, 2000.

ADDRESSES: Send comments and materials concerning this proposal to the Field Supervisor, U.S. Fish and Wildlife Service, Mississippi Field Office, 6578 Dogwood View Parkway, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Linda LaClaire at the above address, telephone 601/965–4900, or facsimile 601/965–4340.

SUPPLEMENTARY INFORMATION:

Background

The gopher frog (*Rana capito*) is a member of the large cosmopolitan family, Ranidae (''true frogs''). The genus *Rana* is the only North American representative of this family. We define the Mississippi gopher frog distinct population segment as those populations of gopher frogs in the lower coastal plain ranging from the Mississippi River in Louisiana to the Mobile River delta of Alabama. Goin and Netting (1940) described frogs from this geographic range as a distinct species of gopher frog, *Rana sevosa*. The taxonomic history of gopher frogs is complex (summary in Altig and Lohoefener 1983). Subsequent to the original description by Goin and Netting, frogs of this population segment were considered subspecies of *Rana capito* (gopher frog) (*R. c. sevosa*) (Wright and Wright 1942) and later subspecies of *R. areolata* (crayfish frog) (*R. a. sevosa*) (Viosca 1949). In 1991, Collins challenged the taxonomic arrangement that lumped crayfish frogs and gopher frogs together as one species and recommended their separation based on biogeographical grounds. This arrangement was followed by Conant and Collins (1991), who again recognized the name *R. c. sevosa*. Wright and Wright (1942) first used the common name of ''dusky gopher frog'' for this subspecies, and it has been used in subsequent publications. The range of the subspecies, as presently described, also extends to the Gulf Coast of western Florida and adjacent Alabama (Conant and Collins 1991).

Young (1997) conducted the first comprehensive biochemical analysis of the relationships between gopher frogs and crayfish frogs and among subspecies of gopher frogs. She used allozyme electrophoresis (an assay (examination) of gene products) to examine allelic (genetic) differences between and among populations. Allozyme data have been used extensively to investigate the evolution of genetic relationships among related species. Young found strong support for the species designations *R. areolata* (crayfish frogs) and *R. capito* (gopher frogs). Gopher and crayfish frogs varied from each other by fixed differences at four loci (specific locations on a gene). In addition, she found that populations of gopher frogs from Harrison County, Mississippi, were genetically distinct from other populations of gopher frogs east of the Mobile River drainage in Alabama. Young analyzed tissue from gopher frogs across the range of the species including populations in Mississippi, Alabama, Georgia, Florida, and North Carolina. Although Mississippi gopher frogs showed a fixed difference at only a single locus (site for a specific gene on a chromosome) from all other gopher frogs, this difference is considered by many taxonomists to be significant enough to warrant elevation of the frog to its own species (B. Crother, Southern Louisiana University, pers. comm. 1999). No other specific taxonomic divisions could be determined among the remaining populations of gopher frogs sampled. Since Harrison County is within the range of the original specimens used to describe *R. sevosa*, Young recommended the resurrection of *R. sevosa* as a distinct species. A manuscript summarizing her findings has been submitted for publication (Young and Crother, unpublished manuscript). If her recommendations are accepted by the herpetological scientific community, we will reflect this taxonomic change in subsequent publications in the **Federal Register**. Researchers have recommended ''Mississippi gopher frog'' as the common name for this population segment to distinguish it from the other populations of gopher frogs further east (R. Seigel, pers. comm. 1998).

The Mississippi gopher frog has a stubby appearance due to its short, plump body, comparatively large head, and relatively short legs (Conant and Collins 1991). The coloration of its back is dark and varies in individual frogs. It ranges from an almost uniform black to a pattern of reddish brown or dark brown spots on a ground color of gray or brown (Goin and Netting 1940). Warts densely cover the back. The belly is thickly covered with dark spots and dusky markings from chin to mid-body (Goin and Netting 1940, Conant and Collins 1991). Males are distinguished from females by their smaller size, enlarged thumbs, and paired vocal sacs on either side of the throat (Godley 1992). Richter and Seigel (1998b) reported a mean snout-vent length of 67.7 millimeters (mm) (2.7 inches (in)) for males and 79.3 mm (3.2 in) for females in the extant population. Mississippi gopher frog tadpoles are presently indistinguishable from those of leopard frogs and other gopher frogs

(R. Altig, Mississippi State University, pers. comm. 1999).

Mississippi gopher frog habitat includes both upland sandy habitats historically forested with longleaf pine and isolated temporary wetland breeding sites embedded within the forested landscape. Frequent fires are necessary to maintain the open canopy and ground cover vegetation of their aquatic and terrestrial habitat.

Adult and subadult Mississippi gopher frogs spend the majority of their lives underground. They use active and abandoned gopher tortoise (*Gopherus polyphemus*) burrows, abandoned mammal burrows, and holes in and under old stumps as refugia (Allen 1932; LaClaire, pers. obs. 1996; Richter and Seigel 1998a). Gopher tortoise burrows likely represent preferred underground habitats. In Florida, Godley (1992) reported that the closely related Florida gopher frog was known only from sites that supported gopher tortoises. The remaining Mississippi gopher frog population occurs in an area presently lacking gopher tortoises, most likely as a result of habitat degradation. An abandoned tortoise burrow occurs approximately 0.8 kilometers (km) (0.5 miles (mi)) from the breeding pond, and an active burrow was found within 1.6 km (1 mi) of the site in 1992 (T. Mann, Mississippi Department of Wildlife, Fisheries and Parks, pers. comm. 1999).

Gopher frog breeding sites are isolated ponds (not connected to any other water body) that dry completely on a cyclic basis. Substantial winter rains are needed to ensure that ponds are filled sufficiently to allow hatching, development, and metamorphosis of larvae. The timing and frequency of rainfall are critical to the successful reproduction and recruitment of Mississippi gopher frogs.

Today, only a single breeding pond is known for the Mississippi gopher frog. It is located in Harrison County, Mississippi. Adult frogs move to this wetland breeding site during heavy rain events, usually from January to late March (Richter and Seigel 1998b). The breeding pond is approximately 1.5 hectares (3.8 acres) when filled. It attains a maximum depth of 1.1 m (3.6 ft). The pond is hard-bottomed, has an open canopy, and contains emergent and submergent vegetation. Female Mississippi gopher frogs attach their eggs to the rigid vertical stems of emergent vegetation (Young 1997, Richter and Seigel 1998a, 1998b). The pond typically dries in early to mid-summer, but on occasion has remained wet until early fall (G. Johnson, U.S. Forest Service, pers. comm. 1993; Young 1997; Richter and Seigel 1998b). As many as 20 amphibian species (18 frogs and 2 salamanders) are known to breed at the site (G. Johnson, pers. comm. 1993). Bailey (1990) and Palis (1998) found similar habitat attributes in breeding ponds of the closely related gopher frogs in Alabama and Florida.

Adult Mississippi gopher frogs leave the pond site after breeding during major rainfall events. Adults of both sexes use specific migratory corridors when exiting the breeding pond (Richter and Seigel 1998b). Movements away from the pond are slightly east of due north. Young (1997) and Richter and Seigel (1998a) tracked a total of 13 frogs using radio transmitters. The farthest movement recorded was 268 m (879 ft) by a frog tracked for 88 days from its exit of the breeding site. In Florida, gopher frogs have been found 2 km (1.2 mi) from their breeding sites (Carr 1940, Franz *et al.* 1988). It is unclear if the distances recorded for the Mississippi gopher frogs were typical; the tracking periods represented only a fraction of their yearly life cycle. Movements corresponded with major rain events. However, dry conditions prevailed during most of the two study periods. In fact, the frogs in Richter and Seigel's study moved during only one 24-hour period, which was associated with a weather event. Another compounding factor was the clearcut timber harvest in 1994 of a site adjacent to the breeding pond. Migratory corridors and available habitat were eliminated by the forestry operation. In 1996, two frogs were tracked to the property line delineating the clearcut, and they did not move from their burrows during the remainder of the study (Richter and Seigel 1997).

Amphibians need to maintain moist skin for respiration (breathing) and osmoregulation (controlling the amounts of water and salts in their bodies) (Duellman and Trueb 1986). Since they disperse from their aquatic breeding sites to the uplands where they live as adults, desiccation (drying out) can be a limiting factor in their movements. Thus, it is important that areas connecting their wetland and terrestrial habitats are protected in order to provide cover and appropriate moisture regimes during their migration.

It is likely that, given appropriate habitat, Mississippi gopher frogs are long-lived. The longevity record for a captive close relative, the Carolina gopher frog (*R. capito capito*), is 9 years, 1 month (Snider and Bowler 1992). However, overall low rates of recapture at the extant breeding pond suggest low adult survival in the Mississippi gopher frog population (Richter and Seigel 1998b).

Historical records for the Mississippi gopher frog exist for two or possibly three parishes in Louisiana, six counties in Mississippi, and one county in Alabama. Researchers conducting numerous surveys have been unable to document the continuing existence of the Mississippi gopher frog in Louisiana (Seigel and Doody 1992, Thomas 1996) or in Alabama (Bailey 1992, 1994). The last observation of a gopher frog in Louisiana was in 1967 (Gary Lester, Louisiana Natural Heritage Program, pers. comm. 1991). In Alabama, it was last seen in 1922 (Bailey 1994).

Historical records for the Mississippi gopher frog are limited. We have compiled 35 historical records—1 in Alabama, 14 in Louisiana, and 20 in Mississippi. Historical records are defined as those localities where gopher frogs were found prior to 1990. No new localities for the frog have been found since 1988. Localities are sites identified from specimens captured or heard calling during sampling of potential breeding sites or by surveying highway crossings when individuals were on their way to or from breeding sites. Of the 35 historical records, 24 provided data that could be used to approximate the location of the original site.

Habitat degradation is the primary factor in the loss of gopher frog populations in Alabama, Louisiana, and Mississippi. Bailey (1994) visited the historical Alabama locality in 1993. The habitat had been developed as a residential area, and was no longer suitable for the gopher frog. Seigel and Doody (1992) and Thomas (1996) surveyed historical sites in Louisiana and searched for other potential sites that might be occupied by gopher frogs. They also found that longleaf pine forests had been severely degraded. The historical breeding and upland habitats had changed as a result of urbanization and/or conversion of forest to pine plantation. For example, they found three historical breeding sites that had been extensively altered. One had been made a permanent pond in a residential backyard. Two other ponds had been extensively altered by bedding, clearing, and nutrient loading during conversion of the surrounding habitat to pine plantation. Both Seigel and Doody (1992) and Thomas (1996) were unsuccessful at finding any Mississippi gopher frogs in Louisiana.

Crawford (1988) surveyed 42 ponds in 6 Mississippi counties in 1987 and 1988. He attempted to relocate all of the State's historical localities for the gopher frog. He found that habitat in the vicinity of historical localities had been altered by conversion of natural forest to agriculture and pine plantations.

Urbanization was a factor in the loss of at least three breeding ponds. The character of relocated historical breeding ponds had been changed from open-canopy, temporary ponds with clear water and hard bottoms to muddy, more permanent ponds with a closed canopy (G. Johnson, pers. comm. 1999). No appropriate habitat for the Mississippi gopher frog could be found near any of the localities (G. Johnson, pers. comm. 1999). Crawford (1988) also used aerial maps to identify potential breeding sites. In many cases, ponds identified on these maps no longer existed due to land use changes. However, he was able to verify the presence of the species at four new sites in Harrison County, Mississippi. At three of these four sites, only one individual was observed. Kuss (1988) surveyed 60 ponds in southern Mississippi for the flatwoods salamander (*Ambystoma cingulatum*). He did not encounter any gopher frogs during the surveys. Subsequent to these studies, surveys have documented the continued existence of only one population in Mississippi. This population breeds at a pond located in the DeSoto National Forest in Harrison County. Surveyors working in Mississippi during the 1990s have been unable to find the species at any other sites (R. Jones, Mississippi Department of Wildlife, Fisheries and Parks, pers. comm. 1998; G. Johnson, pers. comm. 1999). Although Allen (1932) found gopher frogs to be common in the coastal counties of Mississippi earlier in the century, today R. Seigel (pers. comm. 1998) estimates the extant Mississippi gopher frog population to be only 100 adult frogs at a single site.

The extensive habitat alteration found during surveys of historical gopher frog localities in Alabama, Louisiana, and Mississippi resulted from the loss of virtually all of the natural longleaf pine forest in these States. Presettlement longleaf pine forests were the dominant forest type of the southeastern coastal plain. Today, less than 2 percent of these forests remain (Ware *et al.* 1993). Second growth longleaf pine forests in the vicinity of historical Mississippi gopher frog breeding sites were clearcut extensively in the mid-1950s and then again in the 1980s and 1990s. Longleaf pine forest habitat was replaced with dense pine plantations, agriculture, and urban areas. Habitat degradation has occurred as a result of alterations in the soil horizon (layering of different soil types), forest litter, herbaceous community, and occurrence of downed trees and stumps that Mississippi gopher frogs use as refugia. Fire suppression has further degraded the habitat. The hydrology of many isolated temporary wetlands, required as breeding sites for the Mississippi gopher frog, has been altered. In addition, these same factors have resulted in the decline of the gopher tortoise, whose burrows are most likely the preferred habitat for adult gopher frogs. As a result of these habitat changes, both the uplands and the pond basins previously occupied by the Mississippi gopher frog have become unsuitable.

Distinct Vertebrate Population Segment

Recent genetic analysis suggested reevaluation of the taxonomy of gopher frogs (*Rana capito*) is necessary (Young 1997). The analysis of the relationships between gopher frogs and crayfish frogs, and among subspecies of gopher frogs, failed to support the current taxonomy for gopher frogs at the subspecific level. However, the research did support taxonomic distinction of the Mississippi gopher frog from all other gopher frogs east of the Mobile River delta, including other dusky gopher frogs. Young and Crother (unpublished manuscript) concluded that the Mississippi gopher frog population segment should be resurrected to species status.

The biological evidence supports recognition of the Mississippi gopher frog as a distinct vertebrate population segment for purposes of listing, as defined in our February 7, 1996, Policy Regarding the Recognition of Distinct Vertebrate Population Segments (61 FR 4722). The definition of ''species'' in section 3(16) of the Act includes ''any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' For a population to be listed under the Act as a distinct vertebrate population segment, three elements are considered—(1) the discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing (*i.e.,* is the population segment endangered or threatened?).

Habitat of the lower Gulf Coastal Plain from the Mississippi River to the Mobile River delta contains the westernmost subpopulation of dusky gopher frogs. This population segment is discrete because it is geographically segregated from other gopher frogs by a large gap (approximately 200 km (125 mi)) of unoccupied habitat and the Mobile River delta. Consequently, this subpopulation does not mix with other dusky gopher frogs.

Young (1997) presented evidence that the Mississippi gopher frog distinct population segment is biologically and ecologically significant due to genetic characteristics different from the species as a whole (see discussion in Background section). The habitat occupied by the Mississippi gopher frog is disjunct from habitat occupied by other populations of the dusky gopher frog. No other populations of gopher frogs remain in Louisiana, Mississippi, or Alabama west of the Mobile River drainage. As a result, loss of the Mississippi gopher frog population segment would result in a substantial modification of the species' range.

Previous Federal Action

In our December 30, 1982, Notice of Review, we designated the dusky gopher frog (designation *Rana areolata sevosa*) as a category 2 candidate and solicited status information (47 FR 58454). Category 2 candidates were those taxa for which we had information indicating that proposing to list as endangered or threatened was possibly appropriate, but for which sufficient data on biological vulnerability and threats were not currently available to support a proposed rule. Category 1 taxa were those taxa for which we had sufficient information on biological vulnerability and threats on file to support issuance of proposed listing rules. In our September 18, 1985 (50 FR 37958), and January 6, 1989 (54 FR 554), Notices of Review, we retained the dusky gopher frog in category 2. We identified the dusky gopher frog as a category 1 candidate species in our November 21, 1991 (56 FR 58804), and November 15, 1994 (59 FR 58982), Notices of Review. Beginning with our February 28, 1996, Notice of Review (61 FR 235), we discontinued the designation of multiple categories of candidates, and we now consider only taxa that meet the definition of former category 1 taxa as candidates for listing. We also removed Rana areolata sevosa from candidate status based on the need for additional information to support a listing proposal. We have recently completed an analysis of newly available information from current studies and determined that listing the Mississippi gopher frog distinct population segment of the dusky gopher frog is warranted. We elevated the Mississippi gopher frog to candidate status in our October 25, 1999, Notice of Review (64 FR 57534).

The processing of this proposed rule conforms with our Listing Priority Guidance published in the **Federal Register** on October 22, 1999 (64 FR 57114). The guidance clarifies the order

in which we will process rulemakings. Highest priority is processing emergency listing rules for any species determined to face a significant and imminent risk to its well-being (Priority 1). Second priority (Priority 2) is processing final determinations on proposed additions to the lists of endangered and threatened wildlife and plants. Third priority is processing new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority. The processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations of critical habitat will no longer be subject to prioritization under the Listing Priority Guidance. This proposed rule is a Priority 3 action and is being completed in accordance with the current Listing Priority Guidance.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) issued to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. We may determine a species to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Mississippi gopher frog distinct population segment (*Rana capito sevosa*) are as follows:

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

The range of the Mississippi gopher frog has been reduced as a result of habitat destruction and modification (see ''Background'' section). Historically, the Mississippi gopher frog occurred in at least nine counties or parishes in the States of Alabama, Mississippi, and Louisiana. Today, it is known from only one site in Harrison County, Mississippi.

The Mississippi Gulf Coast has experienced a recent increase in residential development. The land 200 m (656 ft) immediately north of the only known Mississippi gopher frog breeding site is slated for development, including a 20,000-unit retirement community, a sewage treatment plant, and several golf courses (L. Lewis, Brown and Mitchell, Inc., pers. comm. 1999). The sewage treatment plant and one golf course are currently planned immediately north of the gopher frog pond. Richter and Seigel (1998b) reported that the majority of gopher frogs leaving the breeding pond moved in the general direction of the development site. Two frogs, tracked using transmitters, were observed at the fence line delineating the DeSoto National Forest property boundary from the lands currently slated for development (Richter and Seigel 1998a). It seems likely that Mississippi gopher frogs occupy, or in the very recent past have occupied, this site. Residential development of the site would likely destroy its suitability for the frog.

Due to the close proximity of this development to the Mississippi gopher frog pond, a number of indirect impacts are possible. The most severe is the potential alteration of hydrology (physical factors that influence the movement of water into and out of a wetland) in the local region. The breeding pond of the Mississippi gopher frog must maintain its isolation and cycle of filling and drying, or it will no longer be suitable habitat. Wetland dredging and filling will be required in order to site houses and build the golf course and sewage treatment plant. The consequences of these proposed hydrological alterations cannot be estimated without further study. However, the only known breeding pond for the Mississippi gopher frog would undoubtedly be affected in some way (W. Oakley, U.S. Geological Survey, pers. comm. 1999).

A number of scenarios are possible due to the proximity of a proposed regional sewage treatment plant within 1.6 km (1 mi) of the Mississippi gopher frog pond. If sewage lagoons are used, it is possible they could overflow and flood gopher frog habitat. Such conditions of high water periodically result from the tropical storms that occur along the Mississippi Gulf Coast. Another potential effect is the lowering or raising of the groundwater table. Changes in the water table will alter the hydroperiod of the Mississippi gopher frog breeding pond and reduce its habitat suitability.

A dam has been proposed for the Biloxi River within 1.6 km (1 mi) of the Mississippi gopher frog pond. The reservoir plan involves a dam on the Biloxi River that would flood approximately 567 hectares (1,400 acres), primarily within the boundaries of the DeSoto National Forest (*Sun Herald,* Gulfport, Mississippi, May 4, 1999). The impoundment created by this dam would likely alter the temporary nature of the breeding site and flood occupied upland habitat used by adult frogs and/or potentially unoccupied upland habitat.

The highway expansion, both ongoing and planned, in the vicinity of the existing Mississippi gopher frog pond will fragment the available longleaf pine habitat (see Factor E). Urbanization will expand along these highway corridors and further reduce available habitat for the frog. Highway construction may also alter the existing hydrology of the area through creation of drainage ditches, filling of wetlands, and sedimentation.

The remaining breeding pond for the Mississippi gopher frog is located in the DeSoto National Forest. Silviculture, including timber sales with associated clearcutting, is currently the primary activity in this area. Inappropriate timber management could alter the suitability of the Mississippi gopher frog's remaining habitat (see ''Background'' section). In 1994, habitat on private land 200 m (656 ft) north of the breeding pond, now slated for residential development, was clearcut. The behavior of two Mississippi gopher frogs tracked from their breeding site may be indicative of the negative effects of clearcutting. The two frogs were followed to a burrow at the boundary of the clearcut (Richter and Seigel 1998a). They never left this location during the life of the transmitters. The burrow and stump holes used by migrating frogs on the clearcut site were likely altered. In addition, the site had no overstory and would represent a desert to moisture-requiring frogs. Although the effects of the clearcut on the population are unknown, it appears likely that, at least temporarily, the habitat was unsuitable for the frogs.

Historical gopher frog breeding sites have been degraded by roads that pass through or are adjacent to ponds. Erosion of unpaved roads adjacent to breeding sites may result in an influx of sediment from surrounding uplands during rainstorms. The hydroperiod (period during which a wetland holds water) at the Mississippi gopher frog breeding site has been negatively affected by a poorly maintained logging road that runs within 20 m (66 ft) of the pond (R. Seigel, pers. comm. 1998).

The open canopy and flat, unforested bottom of the Mississippi gopher frog breeding pond represent an alluring site for dumping unwanted trash and riding off-road vehicles (ORV). Many temporary ponds throughout the southeast have been degraded as a result of garbage dumping (LaClaire, pers. obs. 1994). ORVs can cause direct mortality of gopher frog tadpoles and adults (J. Jensen, Georgia Department of Natural Resources, pers. comm. 1996) as well as alter the quality of a breeding site. ORVs alter the contours of the pond floor, eliminate herbaceous vegetation, and can alter the hydrology of the site (LaClaire, pers. obs. 1995). Loss of herbaceous vegetation caused by ORVs could also discourage gopher frog

reproduction, since egg masses are attached to stems of herbaceous vegetation (Young 1997; Richter and Seigel 1998a, 1998b). ORV tracks have been documented within the Mississippi gopher frog breeding site (G. Johnson, pers. comm. 1994). In 1994, an area of the DeSoto National Forest within 2.4 km (1.5 mi) of the existing breeding pond was temporarily closed due to accumulation of trash, soil erosion and water quality degradation caused by ORVs, damage to endangered and sensitive plants and animals, and other vandalism (K. Godwin, U.S. Forest Service, pers. comm. 1994). ORV use will likely increase in the vicinity of the pond if the proposed housing development occurs adjacent to the site.

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

Direct take of Mississippi gopher frogs for commercial, recreational, scientific, or educational purposes is not currently a threat. However, listing the Mississippi gopher frog may make it more attractive to collectors through recognition of its rarity. In addition, the life history and ecology of Mississippi gopher frogs make them vulnerable to overcollecting, as well as vandalism. Only a single breeding pond remains for this frog. At predictable times of the year, all breeding adults congregate at this one site to breed.

C. Disease or Predation

Disease is not known to be a factor in the decline of the Mississippi gopher frog. However, predation may be a threat. Richter and Seigel (1998a) reported that approximately 44 percent of all eggs at the existing breeding site were lost in 1997 prior to hatching. An undetermined amount of the egg mortality was due to predation by caddisfly larvae (Order Trichoptera, Family Phryganeidae) on the egg masses. Caddisfly larvae were not observed on egg masses in the previous year of the study. The effect on the Mississippi gopher frog population is unknown. However, if mortality of this magnitude is a result of predation, it is a cause for concern in such an extremely small and isolated population.

Predation from fish probably contributed to the loss of historic populations. Temporary ponds altered to form more permanent bodies of water and stocked with fish are no longer suitable breeding sites. Fish may have also entered breeding sites through the connection of drainage ditches and firebreaks to pond basins. The Mississippi gopher frog is adapted to temporary wetlands, and its larvae cannot survive the heavy predation of bass and sunfish commonly used to stock ponds. One historical location in Louisiana was destroyed in part because it has become a permanent pond with fish (Thomas 1996). In Mississippi, a calling male was discovered in 1987 at a site that has since been converted to a fish pond (T. Mann, pers. comm. 1998). No gopher frogs have been reported subsequently at this site, which is no longer considered suitable breeding habitat.

D. The Inadequacy of Existing Regulatory Mechanisms

Louisiana has no protective legislation for the Mississippi gopher frog. Alabama protects all gopher frogs as nongame species (J. Woehr, Alabama Department of Conservation and Natural Resources, pers. comm. 1994). The Mississippi gopher frog is listed as endangered in Mississippi (Mississippi Department of Wildlife, Fisheries and Parks 1992), and both Mississippi and Alabama provide protection against collecting of the species. However, this legislation does nothing to alleviate the habitat loss that has caused the decline of the species. The only known breeding site for the Mississippi gopher frog is on U.S. Forest Service land. As a result, there has been a concerted effort to encourage the U.S. Forest Service to manage the site for the frog. Although the U.S. Forest Service has an obligation to ensure their land management activities protect fish and wildlife (National Forest Management Act), forest management is often limited by existing funding. Other avenues of funding become available to the U.S. Forest Service once a species is federally listed.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Fire is needed to maintain the natural longleaf pine community. Ecologists consider fire suppression a primary reason for the degradation of the remaining longleaf pine acreage in the southeast (Noss 1988, Ware *et al.* 1993). Fire suppression has reduced the quality of the terrestrial and aquatic habitat for the Mississippi gopher frog. Canopy closure from fire suppression alters the forest floor vegetation and threatens the open, herbaceous character typical of gopher frog breeding ponds (Kirkman 1995, LaClaire 1995). In addition, fire causes the release of nutrients bound in plant material. This release of nutrients results in a flush of primary productivity that is important to the herbivorous gopher frog tadpoles. Fire suppression has probably negatively impacted all of the historical Mississippi gopher frog sites. At this time, fire is the only known management tool that will maintain the existing breeding pond as suitable habitat.

Between 1991 and 1998, the U.S. Forest Service conducted periodic growing-season burns of the forest compartment surrounding the Mississippi gopher frog breeding pond. These burns improved habitat conditions, but their frequency and extent have been insufficient. For example, the interior of the breeding site has been burned only once since 1991. This frequency of burning is too low to prevent woody encroachment and, therefore, too low to enhance herbaceous growth. Residential development and road construction in the vicinity of the breeding pond will create increased concerns about, and likely reduce the use of, fire as a management tool.

Habitat fragmentation of the longleaf pine ecosystem, resulting from habitat conversion, threatens the survival of the single remaining Mississippi gopher frog population. Studies have shown that the loss of small, fragmented populations is common, and recolonization is critical for their regional survival (Fahrig and Merriam 1994, Burkey 1995). As patches of available habitat become separated beyond the dispersal range of a species, populations are more sensitive to genetic, demographic, and environmental variability and may be unable to recover (Gilpin 1987, Sjogren 1991, Blaustein *et al.* 1994). This scenario describes threats to the Mississippi gopher frog. Five historical Mississippi gopher frog localities exist within a 19.2-km (12-mi) radius of the remaining site. Highways have fragmented this area and contributed to habitat degradation. The most recent records of frogs at these locales was in the late 1980s. The planned construction of highways within 5 km (3.1 mi) both to the north and east of the existing Mississippi gopher frog pond will further isolate the remaining population from the two potentially restorable historical breeding sites in the DeSoto National Forest. The Biloxi River and additional residential development bound the habitat to the west and south.

Low reproductive potential may also present a threat to the Mississippi gopher frog's continued existence. Studies at the Mississippi breeding site suggest that female Mississippi gopher frogs may not breed until 2 to 3 years of age and may breed only in alternate years and/or have only a single lifetime

breeding event (Richter and Seigel 1998b). In addition, survival of juvenile frogs is thought to be extremely low (Richter and Seigel 1998b).

Annual variability in rainfall influences how frequently and how long a pond is appropriate breeding habitat. Reliance on specific weather conditions results in unpredictable breeding events and reduces the likelihood that recruitment will occur every year. No larvae survived to metamorphosis in 3 out of 6 years of the reproductive study of the extant Mississippi gopher frog population (summarized in Richter and Seigel 1998b). In addition, study results indicate that only 1 year out of 6 resulted in the explosive numbers (2,488) of juveniles typical of temporary pond breeding amphibians.

The Mississippi gopher frog population is highly susceptible to genetic isolation, inbreeding, and random demographic events as a result of having only one known breeding site. Long-lasting droughts or frequent floods may negatively affect the population. Although these are natural processes, other threats, such as habitat fragmentation, habitat degradation, and low reproductive potential, may cause the population to decline to the point that it cannot recover.

Pesticides and herbicides pose a threat to amphibians such as the Mississippi gopher frog, because their permeable eggs and skin readily absorb substances from the surrounding aquatic or terrestrial environment (Duellman and Trueb 1986). Aquatic frog larvae are likely more vulnerable than adults to chemical changes in their environment. Negative effects of commonly used pesticides and herbicides on amphibian larvae include delayed metamorphosis, paralysis, reduced growth rates, and mortality (Bishop 1992, Berrill and Bertram 1997, Bridges 1999). Adult gopher frogs are predaceous and could be affected by pesticides accumulated in their invertebrate prey. If a golf course is built in the drainage area of the Mississippi gopher frog breeding pond, as proposed, the herbicides and pesticides used to maintain it would pose a potential threat to the population. In addition, runoff from chemically maintained yards and roads in the proposed residential development may contribute toxins that could threaten the frog. Herbicides may also alter the density and species composition of vegetation surrounding a breeding site and reduce the number of potential sites for egg deposition, larval development, or shelter for migrating frogs.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the Mississippi gopher frog distinct population segment in determining to propose this rule. Based on this evaluation, the preferred action is to list the Mississippi gopher frog distinct population segment as endangered. The Act defines an endangered species as one that is in danger of extinction throughout all or a significant portion of its range. A threatened species is one that is likely to become an endangered species in the foreseeable future throughout all or a significant portion of its range. As discussed under Factor A, in spite of extensive surveys throughout the known range of the Mississippi gopher frog, only one population is known to exist. Further, residential development, new and expanding highways, increased fire suppression, and a proposed reservoir pose threats to the remaining habitat of adult gopher frogs. For these reasons, we find that the Mississippi gopher frog distinct population segment is in danger of extinction throughout all or a significant portion of its range and, therefore, endangered status is appropriate.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (I) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(I) The species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species or (ii) such designation of critical habitat would not be beneficial to the species. We find that designation of critical habitat is prudent for the Mississippi gopher frog.

Critical habitat designation, by definition, directly affects only Federal agency actions through consultation under section 7(a)(2) of the Act. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify its critical habitat.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that 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 identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

The Final Listing Priority Guidance for FY 2000 (64 FR 57114) states, ''The processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations of critical habitat will no longer be subject to prioritization under the Listing Priority Guidance. Critical habitat determinations, which were previously included in final listing rules published in the **Federal Register**, may now be processed separately, in which case stand-alone critical habitat determinations will be published as notices in the **Federal Register**. We will undertake critical habitat determinations and designations during FY 2000 as allowed by our funding allocation for that year.'' As explained in detail in the Listing Priority Guidance, our listing budget is currently insufficient to allow us to immediately complete all of the listing actions required by the Act.

We propose that critical habitat is prudent for the Mississippi gopher frog. In the last few years, a series of court decisions have overturned Service determinations regarding a variety of species that designation of critical habitat would not be prudent (*e.g., Natural Resources Defense Council* v. *U.S. Department of the Interior* 113 F. 3d 1121 (9th Cir. 1997); *Conservation Council for Hawaii* v. *Babbitt,* 2 F. Supp. 2d 1280 (D. Hawaii 1998)). Based on the standards applied in those judicial opinions, we believe that designation of

critical habitat would be prudent for the Mississippi gopher frog.

Due to the fact that the Mississippi gopher frog is only known from one site, it is vulnerable to unrestricted collection, vandalism, or other disturbance. We are concerned that these threats might be exacerbated by the publication of critical habitat maps and further dissemination of locational information. However, at this time we do not have specific evidence for the Mississippi gopher frog of taking, vandalism, collection, or trade of this species or any similarly situated species. Consequently, consistent with applicable regulations (50 CFR 424.12(a)(1)(I)) and recent case law, we do not expect that the identification of critical habitat will further increase the degree of threat of taking or other human activity above that of the listing of the species.

In the absence of a finding that critical habitat would increase threats to a species, if there are any benefits to critical habitat designation, then a prudent finding is warranted. In the case of this species, there may be some benefits to designation of critical habitat. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely modifies critical habitat. While a critical habitat designation for habitat currently occupied by this species would not be likely to change the section 7 consultation outcome because an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, there may be instances where section 7 consultation would be triggered only if critical habitat is designated. Examples could include unoccupied habitat or occupied habitat that may become unoccupied in the future. There may also be some educational or informational benefits to designating critical habitat. Therefore, we propose that critical habitat is prudent for the Mississippi gopher frog. However, the deferral of the critical habitat designation for the Mississippi gopher frog will allow us to concentrate our limited resources on higher priority critical habitat and other listing actions, while allowing us to put in place protections needed for the conservation of the Mississippi gopher frog without further delay. We anticipate in FY 2000 and beyond giving higher priority to critical habitat designation, including designations deferred pursuant to the Listing Priority Guidance, such as the designation for this species, than we have in recent fiscal years.

We plan to employ a priority system for deciding which outstanding critical habitat designations should be addressed first. We will focus our efforts on those designations that will provide the most conservation benefit, taking into consideration the efficacy of critical habitat designation in addressing the threats to the species, and the magnitude and immediacy of those threats. We will make the final critical habitat determination with the final listing determination for the Mississippi gopher frog. If this final critical habitat determination is that critical habitat is prudent, we will develop a proposal to designate critical habitat for the Mississippi gopher frog as soon as feasible, considering our workload priorities.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is listed as endangered or threatened and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with us on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us.

The Mississippi gopher frog occurs in the DeSoto National Forest, Federal land administered by the U.S. Forest Service. The U.S. Forest Service will be required to evaluate whether their activities have the potential to adversely impact the Mississippi gopher frog. Their activities that could adversely modify suitable habitat include, but are not limited to, forest management and road construction. Other Federal agencies that may be involved in authorizing, funding, or carrying out activities that may affect the Mississippi gopher frog include the Army Corps of Engineers, due to their regulation of discharges of dredged or fill material into isolated wetlands under section 404 of the Clean Water Act (CWA), nationwide permit 26 and dam construction in navigable waters under section 10 of the Rivers and Harbors Act and 404 of the CWA; the Federal Energy Regulatory Commission, due to their oversight of gas pipeline and powerline rights-of-way; and the Federal Highway Administration, if Federal funds are involved in road construction.

We have been working with the U.S. Forest Service since 1988 to protect the last remaining population of the Mississippi gopher frog. We have advised the U.S. Forest Service on protection and management needs for this species. We have supported research on the ecology and life history of this population by projects funded through our cooperative agreement with the State of Mississippi under section 6 of the Act. In addition, we have collaborated with the U.S. Forest Service on the rehabilitation of a nearby pond as a future breeding site for the frog.

The Act and its implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import, export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered wildlife species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to our agents and agents of State conservation agencies.

It is our policy, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify, to the maximum extent practicable at the time a species is listed, those activities that are or are not likely to constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of

the effects of the listing on proposed and ongoing activities within a species' range.

We believe the following activities are unlikely to result in a violation of section 9 for the Mississippi gopher frog:

(1) Possession of legally acquired Mississippi gopher frogs;

(2) Lawful hunting activities;

(3) Lawful burning of habitat where the Mississippi gopher frog is known to occur, including winter burning;

(4) Federally approved projects that involve activities such as discharge of fill material, draining, ditching, bedding, diversion or alteration of surface or ground water flow into or out of a wetland (*i.e.*, due to roads, impoundments, discharge pipes, etc.), when the activity is conducted in accordance with any reasonable and prudent measures given by us in accordance with section 7 of the Act; and,

(5) Conversion of longleaf pine habitat where the Mississippi gopher frog does not occur.

We believe the following activities could potentially result in ''take'' of the Mississippi gopher frog:

(1) Unauthorized killing, collecting, handling, or harassing of individual Mississippi gopher frogs; this would include unauthorized use of off-road vehicles in the wetland basins of known breeding sites of the species.

(2) Possessing, selling, transporting, or shipping illegally taken Mississippi gopher frogs;

(3) Unauthorized destruction or alteration of the hydrology of the frog's wetland breeding sites. These actions would include off-site activities that alter the regional hydrology by changing the natural recharge to the below-ground aquifer, altering the groundwater table, or altering flows in stream drainages, which would impact the appropriate temporal fluctuations and/or water-holding capacity at existing breeding sites. Unauthorized actions that could alter the hydrology of breeding sites would include discharge of fill material, draining, ditching, bedding, clear-cutting within the wetland, diversion or alteration of surface or ground water flow into or out of a wetland (*i.e.*, due to roads, impoundments, discharge pipes, etc.), and operation of any vehicles within the wetland; and,

(4) Discharge or dumping of toxic chemicals, silt, or other pollutants (*i.e.*, sewage, oil, pesticides, and gasoline) into isolated wetlands or upland habitats supporting the species. This includes any application of terrestrial or aquatic pesticide that results in the mortality of adult frogs or tadpoles, regardless if the pesticide was applied in accordance with the labeling instructions. This includes drift from aerial applications and runoff from surface applications.

We will review other activities not identified above on a case-by-case basis to determine whether they may be likely to result in a violation of section 9 of the Act. We do not consider these lists to be exhaustive and provide them as information to the public. You should direct questions regarding whether specific activities may constitute a violation of section 9 to the Field Supervisor of our Mississippi Field Office (see **ADDRESSES** section).

We may issue permits to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22. For endangered species, you may obtain permits for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. You may request copies of the regulations regarding listed wildlife from, and address questions about prohibitions and permits to, the U.S. Fish and Wildlife Service, 1875 Century Blvd., Suite 200, Atlanta, Georgia 30345, or telephone 404/679–7313; facsimile 404/679–7081.

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we request comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. We particularly seek comments concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this distinct population segment;

(2) The location of any additional populations of this distinct population segment;

(3) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(4) Additional information concerning the range, distribution, and size of this distinct population segment; and

(5) Current or planned activities in the subject area and their possible impacts on this distinct population segment.

We will take into consideration your comments and any additional information received on this distinct population segment when making a final determination regarding this proposal. We will also submit the available scientific data and information to appropriate, independent specialists for review. We will summarize the opinions of these reviewers in the final decision document. The final determination may differ from this proposal based upon the information we receive.

You may request a public hearing on this proposal. Your request for a hearing must be made in writing and filed within 45 days of the date of publication of this proposal in the **Federal Register**. Address your request to the Field Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

We have determined that we do not need to prepare an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any new collections of information other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance 1018–0094. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. For additional information concerning permit and associated requirements for endangered species, see 50 CFR 17.22.

References Cited

You may request a list of all references cited in this document, as well as others, from the Mississippi Field Office (see **ADDRESSES** section).

Author. The primary author of this proposed rule is Linda V. LaClaire, Mississippi Field Office (see **ADDRESSES** section) (601/965–4900).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. In § 17.11(h) add the following, in alphabetical order under AMPHIBIANS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
AMPHIBIANS							
*	*	*	*	*	*	*	
Frog, Mississippi gopher.	*Rana capito sevosa*	U.S.A.(AL, FL, LA, MS).	Wherever found west of Mobile and Tombigbee Rivers in AL, MS, and LA.	E	.....	NA	NA
*	*	*	*	*	*	*	

Dated: April 6, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–12796 Filed 5–22–00; 8:45 am]

BILLING CODE 4310–55–U

Notices

Federal Register

Vol. 65, No. 100

Tuesday, May 23, 2000

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

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

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

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice announces the Department's intention to request an extension for a currently approved information collection in support of the Dairy Tariff-Rate Import Quota Licensing program.

DATES: Comments should be submitted no later than July 24, 2000 to be assured of consideration.

ADDITIONAL INFORMATION AND COMMENTS: Submit comments and/or requests for information to Richard P. Warsack, Dairy Import Quota Manager, STOP 1021, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250–1021, telephone (202) 720–9439 or e-mail warsack@fas.usda.gov. All comments received will be available for public inspection in room 5541–S at the above address. Persons with disabilities who require an alternative means for communication of information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION

Title: Dairy Tariff-Rate Import Quota Licensing Program.

OMB Number: 0551–0001.

Expiration Date of Approval: October 31, 2000.

Type of Request: Extension of a currently approved information collection.

Abstract: The currently approved information collection supports Import Regulation 1, Revision 8 (7 CFR 6.20–6.37) which governs the administration of the import licensing system for certain dairy products subject to tariff-rate quotas (TRQs). The TRQs were established in the Harmonized Tariff Schedule of the United States (HTS) as a result of entry into force of certain provisions in the Uruguay Round Agreement. Imports of nearly all cheese made from cow's milk (except soft-ripened cheese such as Brie) and certain noncheese dairy products are subject to TRQs and the licensing provisions of Revision 8. Import licenses are issued each quota year to eligible licensees and are valid for 12 months (January 1 through December 31). Holders of such licenses may enter dairy articles at the low-tier tariff rate. Importers who do not hold licenses may enter dairy articles at the high-tier tariff rate.

For each quota year, all applicants must submit form FAS 923 (rev. 7–96). This form requests applicants to: (1) identify whether they are applying for a license as an importer, manufacturer or exporter of certain dairy products; and (2) certify they meet the eligibility requirements of § 6.23 of the Import Regulation. Importers and exporters must attach documentation required by § 6.23 and § 6.24 as proof of eligibility for import licenses. Applicants for nonhistorical licenses for cheese and/or noncheese dairy products must also submit form FAS 923–A and/or FAS 924–B (rev. 7–96). This form requires applicants to identify requests for licenses listed on the form in descending rank-order.

After licenses are issued, § 6.26 requires licensees to surrender by October 1 any license amount that a licensee does not intend to enter that year. To the extent practicable, the Licensing Authority reallocates these amounts to existing licensees for the remainder of that year. The information collection includes form FAS 924–A, License Surrender Form and FAS 924–B, Application for Additional License Amounts. These forms require the licensee to complete a table listing the license number and surrendered amount or to list the additional amounts requested by dairy article, supplying country and amount requested by descending rank-order.

Estimate of burden: The public reporting burden for this collection of currently approved forms FAS 923, FAS 923–A and 923–B (one form) is estimated to average 255 hours; and FAS 924–A and FAS 924–B (one form) is 15 hours. The estimated average burden includes the time for reviewing instructions, gathering data needed, completing forms, and record keeping are set forth in the table below.

Estimates	FAS 923, 923–A, 923–B (Rev.7–96) (one form)	FAS 924–A, 924–B (one form)
Est. number of respondents	340.00	100.00
Est. responses per respondent	1.00	1.00
Est. hours per response	0.75	0.15
Est. total annual burden in hours	255.00	15.00
Aggregate total	270.00 estimated annual burden in hours.	

Copies of this information collection can be obtained from Kimberly Chisley, the Agency Information Collection Coordinator, at (202) 720–2568.

The Department requests comments regarding the accuracy of the burden estimate, ways to minimize the burden, including the use of automated collection techniques or other forms of information technology, or any other aspect of the collection of information.

Comments should be submitted in accordance with the Dates, Additional Information and Comments sections above. All comments will be summarized and included in the request for OMB approval, and will also become a matter of public record.

Signed at Washington, D.C. on May 17, 2000.

Timothy J. Galvin,

Administrator, Foreign Agricultural Service.

[FR Doc. 00–12945 Filed 5–22–00; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Seek Approval To Conduct an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intent of the National Agricultural Statistics Service (NASS) to request approval for an information collection, the *Census of Agriculture Content Test.*

DATES: Comments on this notice must be received by July 27, 2000 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4117 South Building, Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION: *Title:* Census of Agriculture Content Test.

Type of Request: Intent to Seek Approval to Conduct an Information Collection.

Abstract: The Census of Agriculture is the leading source of statistics about the nation's agricultural production and the only source of consistent, comparable data at the county, state, and national levels. The Census of Agriculture is required by law under the ''Census of Agriculture Act of 1997,'' Pub. L. No. 105–113 (7 U.S.C. 2204(g)).

The purpose of this voluntary content test is to evaluate a number of factors affecting the census program: questionnaire format and design, new content items, changes to question location and wording, respondent burden, the ability of the respondent to provide the data, and selected processing methods. Results will be analyzed in preparation for the 2002 Census of Agriculture.

Minimizing response burden while recognizing the needs for agricultural sector data is a consideration when reviewing content expansion during 2002 Census questionnaire development. USDA/NASS conducted meetings with other USDA and Federal agencies and contacted State Departments of Agriculture to gather information about uses and justification for county-level data. Recommendations resulting from these evaluations are the basis for many of the changes incorporated into the content test questionnaires.

This Census of Agriculture Content Test will be conducted at the national level, excluding Hawaii and Alaska. The random sample will be mailed questionnaires with nonrespondents receiving a follow-up contact. NASS will summarize the data and present the findings to the Advisory Committee on Agriculture Statistics.

Estimate of Burden: Public reporting burden for this collection of information averages 2 minutes per refusal, 5 minutes per screen-out, and 90 minutes per positive response.

Respondents: Farm and ranch operators.

Estimated Number of Respondents: 15,000.

Estimated Total Annual Burden on Respondents: 17,000 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, the Agency OMB Clearance Officer, at (202) 720–5778.

Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Ginny McBride, Agency OMB Clearance Officer, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4162 South Building, Washington, D.C. 20250–2000 or gmcbride@usda.gov/nass.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, April 3, 2000.

Rich Allen,

Associate Administrator.

[FR Doc. 00–12943 Filed 5–22–00; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Extend Approval of an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intent of the National Agricultural Statistics Service (NASS) to request an extension of a currently approved information collection, the *Agricultural Economics and Land Ownership Survey.*

DATES: Comments on this notice must be received by July 27, 2000 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4117 South Building, Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION: *Title:* Agricultural Economics and Land Ownership Survey.

OMB Control Number: 0535–0240.

Expiration Date of Approval: June 30, 2000.

Type of Request: Intent to Extend Approval of an Information Collection.

Abstract: The 1999 Agricultural Economics and Land Ownership Survey (AELOS) is being conducted by the National Agricultural Statistics Service. This national survey obtains data to describe the economic status of the U.S. farm operations and farm households. Data collected will provide information on agricultural land ownership, financing, and inputs by farm operators and landlords. The AELOS is designed to provide data that are valid for each

state and the U.S. as a whole. It is being conducted in 2000 for the 1999 calendar year. The respondent universe consists of two populations. First is the official USDA farm population which is defined as ''all establishments that sold or would have normally sold at least $1,000 of agricultural products during the year.'' Second are the landlords of farm operators selected for the survey. This request is for an extension of survey approval through September 30, 2000. These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 48 minutes per response.

Respondents: Farms, individuals.

Estimated Number of Respondents: 72,000.

Estimated Total Annual Burden on Respondents: 58,100.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, the Agency OMB Clearance Officer, at (202) 720–5778.

Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Ginny McBride, Agency OMB Clearance Officer, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4162 South Building, Washington, D.C. 20250–2000. All responses to this notice will become a matter of public record.

Signed at Washington, DC, May 1, 2000.

Rich Allen,

Associate Administrator.

[FR Doc. 00–12944 Filed 5–22–00; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1093]

Grant of Authority for Subzone Status; Consolidated Diesel Company (inc.) (Spark-Ignition and Diesel Engines); Nash County, North Carolina

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''the establishment * * * of * * * foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board (the Board) to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the North Carolina Global TransPark Authority, grantee of Foreign-Trade Zone 214, has made application for authority to establish special-purpose subzone status at the spark-ignition and diesel engine manufacturing facilities of Consolidated Diesel Company (Inc.), located in Whitakers and Battleboro, North Carolina (FTZ Docket 6–99, filed 2–10–99);

Whereas, notice inviting public comment was given in the **Federal Register** (64 FR 8541, 2–22–99); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby grants authority for subzone status at the spark-ignition and diesel engine manufacturing facilities of Consolidated Diesel Company (Inc.) located in Whitakers and Battleboro, North Carolina (Subzone 214A), at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 8th day of May 2000.

Troy H. Cribb,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 00–12977 Filed 5–22–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1094]

Approval for Extension of Authority of Board Order 828; Foreign-Trade Zone 21 Hubner Manufacturing Corporation (Industrial Bellows/Molded Parts); Charleston, South Carolina

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, Board Order 828 (61 FR 33094, 6–26–96) granted authority on behalf of Hubner Manufacturing Corporation (HMC) to manufacture of textile/rubber industrial bellows and plastic/rubber molded parts under FTZ procedures subject to the following restrictions: 1) privileged foreign status (19 CFR 146.41) shall be elected on all foreign merchandise admitted to the zone for the HMC operation; and, 2) initial approval for a period of three years from the date of activation of FTZ procedures at the HMC plant (expires 8–7–2000), subject to extension;

Whereas, the South Carolina State Ports Authority, grantee of FTZ 21, has requested authority, on behalf of HMC, to extend its manufacturing authority on a permanent basis by removing Restriction #2;

Whereas, notice inviting public comment was given in the **Federal Register** (64 FR 27959, 5–24–99);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the request would be in the public interest if approval were subject to the restriction listed below;

Now Therefore, the Board hereby approves the request subject to the FTZ Act and the Board's regulations, including § 400.28, and further to a restriction requiring that privileged foreign status (19 CFR 146.41) shall be elected on all foreign-origin merchandise admitted to FTZ 21 for the HMC activity. HMC will continue to

destroy all foreign status scrap materials in the zone, per Board Order 828.

Signed at Washington, DC, this 8th day of May, 2000.

Troy H. Cribb,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 00–12978 Filed 5–22–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1092]

Expansion of Foreign-Trade Zone 216; Olympia, WA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a—81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Port of Olympia, grantee of Foreign-Trade Zone 216 (Olympia, Washington), submitted an application to the Board for authority to expand FTZ 216-Site 3 to include an additional area at the Commerce Place industrial/business park in Lacey, Washington, adjacent to the Port of Olympia Customs port of entry (FTZ Docket 27–99; filed 5/26/99);

Whereas, notice inviting public comment was given in the **Federal Register** (64 FR 29993, 6/4/99) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, Therefore, the Board hereby orders:

The application to expand FTZ 216–Site 3 is approved, subject to the Act and the Board's regulations, including Section 400.28, and subject to the Board's standard 2,000-acre activation limit.

Signed at Washington, DC, this 8th day of May 2000.

Troy H. Cribb,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 00–12976 Filed 5–22–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–603)(C–351–604)(A–122–601)(A–427–602)(C–427–603)(A–475–601)(A–428–602) (A–588–704]

Brass Sheet and Strip From Brazil, Canada, France, Italy, Germany, and Japan: Amended Notice of Continuation of Antidumping Duty Orders and Countervailing Duty Orders

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

ACTION: Amended Notice of Continuation of Antidumping Duty Orders and Countervailing Duty Orders: Brass Sheet and Strip From Brazil, Canada, France, Italy, Germany, and Japan.

SUMMARY: On May 1, 2000, the Department of Commerce (''the Department'') pursuant to section 751(d)(2) of the Act, as amended (''the Act''), published continuation of the antidumping duty orders on brass sheet and strip from Brazil, France, Italy, Germany, Japan, and Canada, and the countervailing duty orders on brass sheet and strip from Brazil and France (65 FR 25304). Subsequent to the issuance of the continuation notice, we discovered a ministerial error. As a result, we are correcting the next sunset review date of these orders listed in the determination section of the notice of continuation of the above orders from ''not later than March 2005'' to ''not later than April 2005.''

EFFECTIVE DATE: May 23, 2000.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Carole Showers, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th St. & Constitution Ave., NW, Washington, D.C. 20230: telephone (202) 482–1698 or (202) 482–3217, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2000, the Department issued the continuation of antidumping duty orders and countervailing duty orders: brass sheet and strip from Brazil, Canada, France, Italy, Germany, and Japan. (65 FR 25304). Subsequent to the publication of the continuation notice, we discovered a ministerial error.

Clerical Error

In our continuation notice, we indicated that we intend to initiate the next five-year reviews of these orders not later than March 2005. However, because the Department's determination to continue the above orders was published on May 1, 2000, pursuant to section 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year reviews of these orders not later than April 2005.

Because we inadvertently listed the wrong initiation month in the determination section of our continuation notice, we are amending that notice to correct the ministerial error.

Amended Continuation Notice

We are correcting the month listed in the determination section of our continuation notice as follows:

Pursuant to sections 751(c)(2) and 751 (c)(6) of the Act, the Department intends to initiate the next five-year review of these orders not later than April 2005.

This amendment is issued and published in accordance with sections 751(h) and 777(i) of the Act.

May 16, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–12973 Filed 5–22–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty Administrative Review

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

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

SUMMARY: On July 21, 1999, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on fresh garlic from the People's Republic of China. The review covers three producers/exporters of subject merchandise. The period of review is November 1, 1997, through October 31, 1998.

We invited interested parties to comment on our preliminary results. Our analysis of the comments we received resulted in no change to our preliminary results for these final results. The final dumping margin is listed in the section entitled ''Final Results of the Review.''

EFFECTIVE DATE: May 23, 2000.

FOR FURTHER INFORMATION CONTACT: Farah Naim or Richard Rimlinger, Office of Antidumping/Countervailing Duty Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482–3174 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

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 19 CFR Part 351 (1999).

Background

On July 21, 1999, the Department published the preliminary results of the administrative review (64 FR 39115) of the antidumping duty order on fresh garlic from the People's Republic of China (the PRC) (59 FR 59209, November 16, 1994). We invited parties to comment on our preliminary results and received comments from the petitioners which contained new information. On November 30, 1999, we published a notice of extension of time limit for the final results in order to allow all parties to address the new information submitted by the petitioners. We received further comments from the petitioners, but we did not receive any submissions from the respondents. On March 21, 2000, we published a second notice of extension of time limit for the final results in order to consider and address fully the issues raised by petitioners.

We have conducted this administrative review in accordance with section 751 of the Act and 19 CFR 351.213.

Scope of Review

The products subject to this antidumping duty administrative review are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing, and level of decay.

The scope of this order does not include the following: (a) Garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed.

The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive. In order to be excluded from the antidumping duty order, garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to the Customs Service to that effect.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' (Decision Memo) from Richard W. Moreland, Deputy Assistant Secretary, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated May 16, 2000, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in B–099 and accessible on the Web at www.ita.doc.gov/import__admin/records/frn/. The paper copy and electronic version of the Decision Memo are identical in content.

Use of Facts Available

Our use of facts available in this review has not changed from the preliminary results. For a discussion of our application of facts available, see the preliminary results and our Decision Memo, which are on file in room B–099 and are also available on the Web at www.ita.doc.gov/import__admin/records/frn/.

Final Results of the Review

We determine that a margin of 376.67 percent exists for all producers/exporters of the subject merchandise from the PRC for the period November 1, 1997, through October 31, 1998. The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to Customs.

Cash-Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Tariff Act: (1) for all PRC exporters, all of which were found not to be entitled to separate rates, the cash-deposit rate will be 376.67 percent; and (2) for non-PRC exporters of subject merchandise from the PRC, the cash-deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

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

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 and 19 CFR 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: May 16, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

Appendix

Comments and Responses

1. Future Request for Administrative Review
2. Evasion of Antidumping Duties

[FR Doc. 00–12974 Filed 5–22–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Notice of Extension of Time Limit for Preliminary Results of Administrative Antidumping Review: Freshwater Crawfish Tail Meat From the People's Republic of China

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

EFFECTIVE DATE: May 23, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0648 or (202) 482–3020, respectively.

The Applicable Statute

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

Background

In accordance with 19 CFR 351.213(b)(2), the Department received requests that we conduct an administrative review of the sales of the following: Huaiyin Foreign Trade Corp. (30); Yancheng Baolong Biochemical Products Co., Ltd.; Qingdao Rirong Foodstuff Co., Ltd.; Lianyungang Haiwang Aquatic Products Co., Ltd.; Yancheng Haiteng Aquatic Products and Foods Co., Ltd.; and Yancheng Foreign Trade Corp. Maritime Trading, a U.S. importer, requested that we conduct an administrative review of Huaiyin Foreign Trade Corp. a.k.a. Huaiyin Foreign Trade Corp. (5). Petitioner in the proceeding, the Crawfish Processors Alliance, also requested an administrative review of the following: China Everbright Trading Company; Binzhou Prefecture Foodstuffs Import & Export Corp.; Huaiyin Foreign Trade Corporation; Huaiyin Foreign Trade Corporation (5); Yancheng Foreign Trade Corporation; Jiangsu Cereals, Oils & Foodstuffs Import & Export Corp.; Yancheng Baolong Aquatic Foods Co.; Huaiyin Ningtai Fisheries Co., Ltd.; Nantong Delu Aquatic Food Co., Ltd.; Ningbo Nanlian Frozen Foods Company, Ltd.; Qingdao Rirong Foodstuff Co.; Lianyungang Haiwang Aquatic Products Company Ltd.; Yancheng Baolong Biochemical Products Co., Ltd.; Zhenfeng Foodstuff Co.; Weishan Hongfa Lake Foodstuff Co., Ltd.; Ever Concord; Hua Yin Foreign Trading; Huaiyin Foreign Trading; Lianyungang Hailong Aquatic Product; Qiafco; Seatrade International; Weishan Jinmuan Foodstuff; Welly Shipping, aka Kenwa Shipping; Yancheng Foreign Trading; Jiangsu Baolong Group; Asia-Europe; Jiangsu Aquatic Products Freezing Plant; and Yupeng Fishery. We published a notice of initiation of this antidumping duty administrative review on November 4, 1999 (64 FR 60161).

On February 1, 2000, the Crawfish Processor Alliance, petitioner in this case, withdrew their request for review for the following companies: China Everbright Trading Company; Binzhou Prefecture Foodstuffs Import & Export Corp.; Jiangsu Cereals, Oils & Foodstuffs Import & Export Corp.; Yancheng Baolong Aquatic Foods Co.; Huaiyin Ningtai Fisheries Co., Ltd.; Nantong Delu Aquatic Food Co., Ltd.; Ever Concord; Lianyungang Hailong Aquatic Product; Qiafco; Seatrade International; Welly Shipping, a.k.a. Kenwa Shipping; and Yancheng Foreign Trading.

Extension of Time Limits for Preliminary Results

Because of the complexity and timing of certain issues in this case, it is not practicable to complete this review within the time limit mandated by section 751(a)(3)(A) of the Act. In the Department's *Freshwater Crawfish Tail Meat From The People's Republic of China: Final Results of Administrative Antidumping Duty and New Shipper Reviews, and Final Rescission of New Shipper Review,* 65 FR 20948 (April 19, 2000) covering the 1997–98 review period (final results), the Department addressed a number of extraordinarily complicated issues, including the relationship between certain exporters. Based on the final results, the Department has required certain exporters to submit a consolidated response. The consolidate response is due on June 12, 2000. Therefore, it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act and section 351. 213(h)(2) of the Department's regulations. See the *Memorandum from Edward C. Yang to Troy H. Cribb, Extension of Time Limits for the Preliminary Results of Administrative Review of Freshwater Crawfish Tail Meat from the People's Republic of China,* dated May 11, 2000.

Therefore, in accordance with these sections, the Department is extending the time limits for the preliminary results to September 29, 2000.

Dated: May 11, 2000.

Joseph A. Spetrini,

Deputy Assistant Secretary for AD/CVD Enforcement III.

[FR Doc. 00–12975 Filed 5–22–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–806]

Silicon Metal From Brazil; Amended Final Results of Antidumping Duty Administrative Review in Accordance With Court Decision

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

ACTION: Notice of amended final results of antidumping duty administrative review in accordance with court decision.

SUMMARY: On February 17, 1999, the Court of International Trade (CIT) affirmed the remand determination of the Department of Commerce (the Department) arising from the administrative review of the antidumping duty order on silicon metal from Brazil. *See American Silicon Technologies, Elkem Metals Company, Globe Metallurgical, Inc. and SKW Metals & Alloys, Inc.* v. *United States,* __CIT__, Slip Op. 99–17, (February 17, 1999). No party appealed this decision. As there is now a final and conclusive court decision in this segment, we are amending the final results of reviews in this matter and will instruct the U.S. Customs Service to liquidate entries subject to these amended final results.

EFFECTIVE DATE: May 23, 2000.

FOR FURTHER INFORMATION CONTACT: Robert Bolling or Jim Doyle, Antidumping/Countervailing Duty Enforcement, Import Administration,

International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–3434 and (202) 482–0159, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1991, the Department issued an antidumping duty order on silicon metal from Brazil. *See Antidumping Duty Order: Silicon Metal from Brazil,* 56 FR 36135 (July 31, 1991) (*Antidumping Duty Order*). On September 5, 1996, the Department published its final results of the second administrative review of silicon metal for four Brazilian exporters, Companhia Brasilerira Carbureto de Calcio (''CBCC''), Companhia Ferroligas Minas Gerais-Minasligas (''Minasligas''), Eletrosilex Belo Horizonte (''Eletrosilex''), Rima Eletrometalurgia S.A. (''Rima''). *See Silicon Metal from Brazil; Final Results of Antidumping Administrative Review,* 61 FR 46763 (September 5, 1996) (*Final Results*). On September 9, 1997, the Department published amended final results to correct ministerial errors raised by the parties after requesting and receiving from the CIT authority to do so. *See Silicon Metal from Brazil: Amended Final Results of Antidumping Duty Administrative Review* 62 FR 47441 (September 9, 1997) (*Amended Final Results*).

On July 30, 1998, the CIT issued an order, *American Silicon Technologies* v. *United States,* 19 F. Supp. 2d 1121 (CIT 1998), remanding to the Department the *Amended Final Results.* In its July 30, 1998 order, the CIT instructed the Department to ensure that any reduction of reported interest expenses for CBCC and Eletrosilex is based upon income specifically derived from short-term investments. *Id.*, at 1123.

On December 16, 1998, the Department filed its final results pursuant to remand. *See Final Results of Redetermination Pursuant to Court Remand, American Silicon Technologies, Elkem Metals Company, Globe Metallurgical, Inc. and SKW Metals & Alloys, Inc.* v. *United States* (December 16, 1998). On February 17, 1999, the CIT upheld the Department's redetermination on remand. *See American Silicon Technologies, Elkem Metals Company, Globe Metallurgical, Inc. and SKW Metals & Alloys, Inc.* v. *United States,* __CIT__, Slip Op. 99–17, (February 17, 1999). Neither party appealed the CIT's decision.

Because neither party appealed, there is now a final and conclusive court decision in this action. We are therefore amending our final results of review for the period July 1, 1992 through June 30, 1993. We recalculated margins for CBCC and Eletrosilex. The revised weighted average margins are as follows:

Manufacturer/Exporter	Margin (percent)
CBCC	35.43
Eletrosilex	51.84

Accordingly, the Department will determine, and the Customs Service will assess, antidumping duties on all entries of subject merchandise from CBCC and Eletrosilex in accordance with these amended final results. For assessment purposes, we have calculated importer-specific duty assessment rates for each class or kind of merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of sales examined. The Department will issue appraisement instructions directly to Customs. The above rate will not affect CBCC or Eletrosilex's cash deposit rates currently in effect, which continue to be based on the margins found to exist in the most recently completed review.

This notice is published in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.221.

Dated: May 15, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–12980 Filed 5–22–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Wisconsin-Milwaukee; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 4211, Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 00–007.

Applicant: University of Wisconsin-Milwaukee, Milwaukee, WI 53211.

Instrument: Scanning Tunneling Microscope, Model STM 25DH.

Manufacturer: Omicron Vakuumphysik GmbH, Germany.

Intended Use: See notice at 65 FR 21397.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides:

(1) Capability to operate at temperatures to 1500° K, (2) a vibrationally isolated vacuum chamber capable to 10^{-11} mbar and (3) vertical imaging of film surfaces with accuracy to 0.001 nm. The National Institute of Standards and Technology and a university research center for advanced microstructure devices advise that (1) these capabilities are pertinent to the applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use (comparable case).

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Dated: May 16, 2000.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 00–12979 Filed 5–22–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051800B]

At-sea Scale Certification Program

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Proposed collection; comment request.

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

DATES: Written comments must be submitted on or before July 24, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of

Commerce, Room 6066, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at lengelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Alan Kinsolving, NOAA/NMFS, F/AKR2, PO BOX 21668, Juneau, AK 99802–1668; phone 907–586–7228.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS) manages the commercial groundfish harvest off Alaska based on an annual total allowable catch for each species. This is based on ''round'' weight, or the weight of the fish prior to processing. However, much of the fish harvested off Alaska is harvested by vessels that process the catch at-sea and do not land whole fish. One way that NMFS uses to estimate the total weight of fish harvested by processing vessels is by requiring the vessel to weigh all or part of their catch on a motion-compensated scale. At this time, two groups of vessels are required to weigh all catch at-sea: catcher processors and motherships that are listed under the American Fisheries act as eligible to harvest pollock; and trawl catcher processors and motherships that are harvesting fish under the Community Development Quota Program (CDQ quota). Non-trawl catcher/processors that harvest CDQ quota are not required to weigh all catch, but they are required to weigh samples of catch. All of these vessels must also provide an observer sampling station where NMFS-certified observers can work. The station must be inspected and approved annually by NMFS.

II. Method of Collection

Scale manufacturers must submit documentation if they wish to have a scale approved by NMFS. Vessel owners required to weigh catch must used NMFS-inspected scales and sampling stations. To schedule an inspection, they must submit a request form. Vessels required to weigh all catch must test their scales daily and maintain documentation verifying that the testing took place. These vessels must also maintain a printed record of the weight of each haul that was required to be weighed. Finally, inspectors employed by other Federal, state, or local weights and measures agencies may request authority to inspect scales on behalf of NMFS.

III. Data

OMB Number: 0648–0330.
Form Number: None.
Type of Review: Regular submission.
Affected public: Business and other for-profit institutions.
Estimated Number of Respondents: 49.
Estimated Time Per Response: 176 hours for the scale type evaluation, 45 minutes for conducting and maintaining a record of the daily scale test, 6 minutes to retain a daily printed scale output, 6 minutes for the request for scale inspection, 6 minutes for maintenance of a scale approval sticker, 6 minutes for an application to inspect scales on behalf of NMFS, and 2 hours to make a request for observer sampling station inspection and maintaining the results.
Estimated Total Annual Burden Hours: 3,508.
Estimated Total Annual Cost to Public: $8,184.

IV. Request for Comments

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

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

Dated: May 17, 2000.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–12969 Filed 5–22–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051200C]

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 meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of the Stone Crab Advisory Panel (AP).

DATES: The AP meeting is scheduled to begin at 8:00 a.m. on June 8, 2000 and will conclude by 12:00 noon.

ADDRESSES: The meeting will be held at the Banana Bay Resort & Marina, 4590 Overseas Highway, Marathon, FL 33050; telephone: 305–743–3500.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The Stone Crab Advisory Panel (AP) will convene to review an amendment to the Stone Crab Fishery Management Plan (FMP).

The amendment proposes to extend the trap certificate program for the commercial stone crab fishery adopted by the state of Florida into the Federal waters off west Florida. The Florida Fish & Wildlife Conservation Commission (FFWCC), after working with the stone crab industry and Council over the past 4 years, has adopted by rule a trap certificate program that will gradually reduce the number of traps over a 30-year period. The Florida legislature has approved the portion of this program pertaining to licenses and fees. Based on this review, the AP may make recommendations to the Council for consideration at their meeting in Key Largo, July 10–14, 2000.

Although other non-emergency issues not on the agendas may come before the 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 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 May 25, 2000.

Dated: May 17, 2000.

Richard W. Surdi,

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

[FR Doc. 00–12968 Filed 5–22–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051200E]

Pacific 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 Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (CPSMT) and Coastal Pelagic Species Advisory Subpanel (CPSAS) will hold public meetings.

DATES: The CPSMT meeting will begin on Thursday, June 8, 2000 at 8 a.m. and will continue until 12 p.m. The CPSAS meeting will begin on Thursday, June 8, 2000 at 1 p.m. and may go into the evening until business for the day is completed.

ADDRESSES: Both the CPSMT and CPSAS meetings will be held in the Large Conference Room at the California Department of Fish and Game, 330 Golden Shore, Suite 50, Long Beach, CA.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Waldeck, Pacific Fishery Management Council, (503) 326–6352; or Dr. Doyle Hanan, California Department of Fish and Game, (619) 546–7170.

SUPPLEMENTARY INFORMATION: There are several items that may be on the CPSMT agenda, these include: Pacific mackerel stock assessment and harvest guideline; coastal pelagic species (CPS) stock assessment and fishery evaluation (SAFE) document; fishery management plan amendment for bycatch in CPS fisheries, market squid maximum sustainable yield, and market squid allowable biological catch; transferability of limited entry permits; and applications for anchovy reduction fishery exempted fishing permits. The primary purpose of the CPSAS meeting is to review documents and analyses developed by the CPSMT and to discuss other pertinent business.

Although non-emergency issues not contained in the meeting agenda may come before the CPSMT and/or the CPSAS for discussion, those issues may not be the subject of formal CPSMT or CPSAS action during this meetings. CPSMT and/or CPSAS 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 Fishery Conservation and Management Act, provided the public has been notified of the CPSMT's and/or CPSAS's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: May 17, 2000.

Richard W. Surdi,

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

[FR Doc. 00–12966 Filed 5–22–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051200D]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Groundfish Stock Assessment Review (STAR) Panel will hold a work session which is open to the public.

DATES: The STAR Panel for Pacific ocean perch and yellowtail rockfish will meet beginning at 1 p.m., June 12, 2000 and continue through June 16, 2000. Except for Monday, June 12, the STAR Panel will meet each day, from 8 a.m. to 5 p.m.

ADDRESSES: The STAR Panel for Pacific ocean perch and yellowtail rockfish will be held in Building 4, Room 2079 of the NMFS Alaska Fisheries Science Center, 7600 Sand Point Way NE., Seattle, WA 98115.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Dan Waldeck, Fishery Management Analyst; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review draft stock assessment documents for Pacific ocean perch and yellowtail rockfish and any other pertinent information, work with stock assessment teams to make necessary revisions, and produce STAR Panel reports for use by the Council family and other interested persons.

Although non-emergency issues not contained in the STAR Panel agenda may come before the STAR Panel for discussion, those issues may not be the subject of formal panel action during this meeting. STAR Panel 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 Fishery Conservation and Management Act, provided the public has been notified of the panel's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: May 17, 2000.

Richard W. Surdi,

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

[FR Doc. 00–12967 Filed 5–22–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability for the Record of Decision (RDO) for the Disposal and Reuse of Fort Chaffee, Arkansas

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA) of 1969 and the President's

Council on Environmental quality, the Army has prepared the ROD in association with the completion of the Final Environmental Impact Statement (FEIS) for the disposal and Reuse of Fort Chaffee, Arkansas. The approved 1995 base closure and realignment actions required by the Base Closure and Realignment Act of 1990 (Pub. L. 101–510), and subsequent actions in compliance with this law, mandated the closure of Fort Chaffee. It is DoD policy to dispose of property no longer needed by DoD. Consequently, as a result of the mandated closure of Fort Chaffee, the Army is disposing of excess property at Fort Chaffee.

The ROD establishes the Army's decision to proceed with the disposal of excess properties/facilities in accordance with the Army's preferred alternative (encumbered disposal) described in the FEIS.

ADDRESSES: Requests for a copy of the FEIS or ROD may be addressed to Mr. Jim Ellis, Little Rock District, U.S. Army Corps of Engineers, ATTN: CESWL–ET–WP, PO Box 867, Little Rock, AR 72203.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Ellis at (501) 324–5033 or by fax at (501) 324–5605.

SUPPLEMENTARY INFORMATION: The FEIS analyzed three disposal alternatives: (1) The no action alternative, which entails maintaining the property in caretaker status after closure: (2) the encumbered disposal alternative, which entails transferring the property to future owners with Army-imposed limitations, or encumbrances, on the future use of the property; and (3) the unencumbered disposal alternative, which entails transferring the property to future owners with fewer or no Army-imposed restrictions on the future use of the property. The preferred action identified in the FEIS is encumbered disposal of excess property at Fort Chaffee. Based upon the analysis contained in the FEIS, encumbrances and deed restrictions associated with the Army's disposal actions for Fort Chaffee will mitigation measures.

Planning for the reuse of the property to be disposed of is a secondary action resulting from closure. The local community has established the Fort Chaffee Redevelopment Authority (FCRA) to produce a reuse development plan for the surplus property. The impacts of reuse are evaluated in terms of land use intensities. This reuse analysis is based upon implementing one of three reuse alternatives, all of which are based upon the FCRA reuse plan. The Army has not selected one of these three reuse alternatives as the preferred action. Selection of the preferred reuse plan is a decision that will be made by the FCRA.

Dated: May 18, 2000.

Raymond J. Patz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA(I&E).

[FR Doc. 00–12935 Filed 5–22–00; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Environmental Assessment (EA) and Finding of No Significant Impact (FNSI) for the National Park Seminary Historic District, Forest Glen Annex, Walter Reed Army Medical Center

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army proposes to report the National Park Seminary Historic District (NPSHD), in its entirety, as excess property to the General Services Administration (GSA), in accordance with Army Regulation 405–90 and federal property law. The NPSHD is part of the Forest Glen Annex of the Walter Reed Army Medical Center (WRAMC) in Montgomery County, Maryland, and is listed on the National Register of Historic Places.

The Army's proposed action will begin the screening and disposal process, by providing notice to the GSA that the NPSHD is excess to the Army's needs. Under the Federal Property and Administrative Services Act and accompanying regulations, GSA is responsible for the disposal of excess federal property. The EA for the NPSHD identifies analyzes the potential impacts of four alternatives: (1) Excessing the NPSHD; (2) excessing NPSHD with additional parcels of land; (3) no action; or (4) moth-balling the historic buildings. The Army's preferred alternative for implementing the proposed action is Alternative 2.

DATES: Public comments on the EA and FNSI must be submitted by June 22, 2000.

ADDRESSES: Address comments to Ms. Beverly Chidel, Acting Public Affairs Officer, Walter Reed Army Medical Center, 6900 Georgia Avenue, N.W., Washington, D.C. 20307–5001 or via email at beverly.chidel@na.amedd.army.mil.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Chidel, Acting Public Affairs Officer, at (202) 782–7177.

SUPPLEMENTARY INFORMATION: Little or no direct adverse impacts on the natural and human environment are anticipated as a result of the Army's proposed excessing action. The Army will retain control of the property and will continue to provide current levels of security and maintenance until a new owner is found. Indirect adverse impacts on air quality, noise, surface water, soil erosion, biological resources, land use, and traffic would result from the eventual reuse of the property by the new (non-Army) owner, which can be avoided or minimized by using best management practices and complying with state and local laws and regulations. The Army is committed to remedying environmental contamination, associated with the Army's past ownership or use of the NPSHD property, as necessary to protect human health and the environment. On the basis of currently available information, no remedial action is expected to be necessary for hazardous substances or wastes, as defined by 42 U.S.C. 9601(14). Indirect adverse effects on historic properties are expected. Consultation with the Maryland State Historic Preservation Officer (SHPO) under Section 106 of the National Historic Preservation Act is ongoing. The GSA, Army, SHPO, Advisory Council on Historic Preservation, as well as any other consulting parties identified by GSA, will work to achieve an appropriate agreement to address potential adverse effects on the historic district. Further evaluation of impacts will be provided in National Environmental Policy Act documentation that will be prepared by GSA for their action of disposal.

On the basis of the environmental impact analyses found in the EA, which was incorporated into a FNSI, it has been determined that implementing the Army's proposed action of reporting the NPSHD to GSA as excess property will not have significant individual or cumulative impacts on the quality of the human environment. Therefore, an Environmental Impact Statement is not required and will not be prepared.

Individuals who want to review the EA and FNSI may obtain a copy and provide comments during this 30-day period, by writing to Ms. Beverly Chidel at the address listed above. Copies of the EA will also be available for public review at the Silver Spring Branch Library (8901 Colesville Road, Silver Spring, MD). The EA also may be viewed on the Internet at www.wramc.amed.army.mil/departments/dpw.

Dated: May 18, 2000.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I&E).

[FR Doc. 00–12972 Filed 5–22–00; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision for the Disposal and Reuse of Naval Air Station Agana, Guam

SUMMARY: The Department of the Navy (Navy), pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4332(2)(C) (1994), and the regulations of the Council on Environmental Quality that implement NEPA procedures, 40 C.F.R. Parts 1500–1508, hereby announces its decision to dispose of Naval Air Station (NAS) Agana, which is located in the United States Territory of Guam. Guam is the southernmost island of the Mariana archipelago in the western Pacific Ocean.

Navy analyzed the impacts of the disposal and reuse of NAS Agana in an Environmental Impact Statement (EIS) as required by NEPA. The EIS analyzed four reuse alternatives and identified the NAS Agana Base Reuse Master Plan (Reuse Plan), approved by the Government of Guam on July 8, 1997, and described in the EIS as the Airport/Business/Industry Alternative, as the Preferred Alternative.

The Preferred Alternative proposed to use NAS Agana for commercial aviation; for industrial and commercial activities; to develop parks and recreational areas; and to build and expand roads and highways. The Government of Guam is the local Redevelopment Authority (LRA) for NAS Agana. Department of Defense Rule on Revitalizing Base Closure Communities and Community Assistance (DOD) Rule), 32 C.F.R. § 176.20(a).

Navy intends to dispose of NAS Agana in a manner that is consistent with the Reuse Plan. Navy has determined that the mixed land use proposed for NAS Agana will meet the goals of achieving local economic redevelopment and creating new jobs while limiting adverse environmental impacts and ensuring land uses that are compatible with adjacent property. This Record Of Decision does not mandate a specific mix of land uses. Rather, it leaves selection of the particular means to achieve the proposed redevelopment to the acquiring entities and the local zoning authority.

Background

Under the authority of the Defense Base Closure and Realignment Act of 1990 (DBCRA), Public Law 101–510, 10 U.S.C. § 2687 note (1994), the 1993 Defense Base Closure and Realignment Commission recommended the closure of Naval Air Station Agana. The Commission also recommended that navy retain the Air Station officers housing to support Navy personnel stationed at Andersen Air Force Base in the northern part of Guam. These recommendations were approved by President Clinton and accepted by the One Hundred Third Congress in 1993. Naval Air Station Agana closed on March 31, 1995.

Prior to closure of the Air Station, the A. B. Won Pat Guam International Airport Authority (GIAA) operated the Guam International Airport at NAS Agana through a joint use agreement with Navy. Under this agreement, Guam's International Airport Authority, which owns and operates a passenger terminal and maintenance area adjacent to NAS Agana, used the Naval Air Station runways and taxiways and relied upon Navy's air traffic controllers for civilian air operations. After NAS Agana closed, GIAA assumed responsibility for all air operations and began using Navy's maintenance hangars through a lease with Navy. The Federal Aviation Administration (FAA) currently provides air traffic control services.

The 1995 Defense Base Closure and Realignment Commission modified the 1993 Commission's recommendation by directing Navy to close the officers housing at NAS Agana. The 1995 Commission's recommendation was approved by President Clinton and accepted by the One Hundred Fourth Congress in 1995.

Naval Air Station Agana is located in the central part of Guam, about three miles northeast of the Village of Agana, which has been renamed Hagatna. The area around the base is also known as Tiyan. The Air Station covers an area of about 1,824 acres of Navy property, and Navy controls an additional 208 acres near the Air Station by way of easements for air operations and drainage. Navy plans to transfer its interests in these easements to GIAA. Disposal and reuse of the officers housing, covering 93 acres, were treated in a separate environmental analysis and document.

Naval Air Station Agana is oriented along a northeast-southwest axis and has a generally triangular shape. The base is bounded on the north by a steep bluff and Route 10A; on the east and southeast by Route 16; and on the south by the intersection of Routes 16, 10, and 8; on the southwest by Route 8; and on the west and northwest by Route 1 and Agana Bay.

The Village of Tamuning, the Airport Authority's passenger terminal and maintenance area, and the Harmon industrial area are located north of the base property. The Village of Dededo is located northeast of the Air Station. Barrigada Heights and facilities associated with the United States Naval Computer and Telecommunications Station, Guam are located, respectively, east and southeast of the Air Station. The Village of Barrigada is located south of the Air Station; and the villages of Mongmong, Toto, and Maite are located southwest of the base.

During the Federal screening process, two Federal agencies requested interagency transfers of base closure property at NAS Agana. These were the National Weather Service of the Department of Commerce's National Oceanic and Atmospheric Administration and the Federal Aviation Administration.

On July 23, 1998, Navy transferred three acres just south of the runways to the National Weather Service, which is building a weather forecasting facility on the site. Navy will transfer the control tower and base operations building (Building 17–75) and a transmitter building (Building 16–3231) and two non-contiguous parcels covering about three acres in this part of the base to the Federal Aviation Administration for air traffic control activities. The remaining 1,725 acres of Navy property at NAS Agana are surplus to the needs of the Federal Government.

This Record of Decision addresses the disposal and reuse of those parts of NAS Agana that are surplus to the needs of the Federal Government. The Air Station contains two parallel runways in a northeast-southwest alignment: a 10,000-foot primary runway (Runway 06L–24R) and an 8,000-foot secondary runway (Runway 06R–24L). Navy plans to transfer its interests in the air operations easements and the drainage easements to GIAA. The base contains about 592 buildings and structures that were used for aviation operations, training, housing, administrative and support activities. The surplus property's undeveloped areas on the western side of the base contain wetlands and, on the eastern side of the base, a forest with limestone soil. There is an archaeological site eligible for listing on the National Register of Historic Places in a developed area south of the airfield.

Of the 1,725 acres of surplus property at NAS Agana, about 249 acres are available to the Government of Guam for economic redevelopment. The Government of Guam proposes to develop industrial and commercial facilities on this property.

Navy plans to dispose of the remaining 1,476 acres of surplus property at NAS Agana by way of various public benefit conveyances. Navy plans to convey about 1,361 acres to the Guam International Airport Authority for use as an airport after approval by the United States Department of Transportation. Navy plans to assign about 72 acres to the Federal Highway Administration for subsequent conveyance to the Government of Guam to permit development of the proposed Laderan Tiyan Parkway north of the airfield, Mariner Parkway south of the airfield, and the proposed extension of Route 10 south of the airfield.

Navy plans to assign about 41 acres in the southern part of the base to the United States Department of the Interior for subsequent conveyance to the Government of Guam for use as parks and recreational areas. Navy plans to convey the Air Station's chapel and religious center and two acres in the southern part of the base to the Government of Guam after the United States Department of Housing and Urban Development approves a legally binding agreement between the LRA and homeless assistance providers.

Navy published a Notice Of Intent in the **Federal Register** on January 22, 1996, announcing that Navy and the FAA as a cooperating agency would prepare an EIS for the disposal and reuse of NAS Agana. Navy held two public scoping meetings in the Government of Guam's Executive Building at Adelup on January 24, 1996. The scoping period concluded on February 23, 1996.

Navy distributed the Draft EIS (DEIS) to Federal and local government agencies, elected officials, community groups and associations, and interested persons on April 9, 1999, and commenced a 45-day public review and comment period. During this period, Federal and local agencies and one person submitted written comments concerning the DEIS. On May 13, 1999, Navy held a public hearing to receive comments on the DEIS at the San Vicente/San Roke Catholic Church's social hall in Barrigada.

Navy's responses to the public comments were incorporated in the Final EIS (FEIS), which was distributed to the public on December 30, 1999, for a review period that concluded on January 28, 2000. Navy did not receive any comments on the FEIS.

Alternatives

NEPA requires Navy to evaluate a reasonable range of alternatives for the disposal and reuse of this surplus Federal property. In the FEIS, Navy analyzed the environmental impacts of four reuse alternatives. Navy also evaluated a ''No Action'' alternative that would leave the property in caretaker status with Navy maintaining the physical condition of the property, providing a security force, and making repairs essential to safety. Under this alternative, Guam's International Airport would continue to operate under the existing joint use agreement between Navy and GIAA, and there would be no expansion of the airport, no improvement of roadways within the base's boundaries, and no transfers of easements.

In Executive Order No. 94–07, dated July 8, 1994, the Governor of Guam, Joseph F. Ada, established the Komita Para Tiyan to prepare a reuse plan for NAS Agana. The Kometia conducted the planning process for NAS Agana in two parts: it developed an airport master plan for submission to the FAA that proposed civilian reuse of the NAS Agana facilities and it developed a reuse plan for all of the surplus property. The Komitea solicited expressions of interest in reuse and redevelopment of the property and received notices of interest from local government agencies, private businesses, homeless assistance providers, and nonprofit organizations.

The Komitea Para Tiyan developed three reuse proposals designated as business/industry, education/heritage, and housing/community. Each proposed a similar expansion of Guam's International Airport. At four public meetings in November 1994 and at three public meetings in June 1995, the Komitea solicited comments concerning the three reuse proposals. On December 22, 1995, the Komitea solicited comments concerning the three reuse proposals. On December 22, 1995, the Kometea adopted the business/industry alternative and approved the NAS Agana Base Reuse Master Plan. In letters to the Department of Defense and the Department of Housing and Urban Development (HUD) dated December 26, 1995, the Governor of Guam, Carl T.C. Gutierrez, submitted this reuse plan to the Federal Government.

In a letter to HUD dated July 8, 1997, Governor Gutierrez submitted modifications to the December 1995 reuse plan. The Governor designated two acres in the southern part of the base for use by homeless assistance providers. Additionally, the modifications changed the proposed use of 27 acres in the western part of the base from parks and recreational activities to airport operations and changed the proposed use of 20 acres in the eastern part of the base from industrial and commercial activities to airport operations.

In Executive Order No. 97–27, dated October 16, 1997, Governor Gutierrez disestablished the Komitea Para Tiyan and established the Base Realignment And Closure GovGuam Steering Committee. He assigned the BRAC GovGuam Steering Committee responsibility for coordinating all future redevelopment at NAS Agana.

The Reuse Plan, identified in the FEIS as the Preferred Alternative, proposed a mix of land uses for NAS Agana. The Preferred Alternative would develop commercial aviation, industrial, and commercial activities as well as parks and recreational areas. it will be necessary to make utility infrastructure and roadway improvements to support the Reuse Plan's proposed redevelopment of NAS Agana.

The Preferred Alternative would expand Guam's International Airport to increase its air traffic capacity. By the full build-out year of 2015, the number of annual aircraft operations would increase from 87,000 to 123,400. The primary runway (06L–24R) would be extended from 10,000 to 12,000 feet (1,000 feet to the northeast and 1,000 feet to the southwest), and the secondary runway (06R–24L) would be extended from 8,000 to 11,000 feet (1,000 feet to the southwest and 2,000 feet to the northeast). This Alternative would build two new taxiways, one north of the primary runway and one south of the secondary runway. It would build a new air traffic control tower, a cargo terminal, a general aviation terminal and service center, aircraft maintenance facilities, and training facilities. It would also reserve land for future expansion of the passenger terminal, additional flight kitchens, and aviation businesses such as an express package and cargo hub.

The Preferred Alternative proposed to build several new roadways and to expand other roadways. This Alternative would build the Laderan Tiyan Parkway north of the airport's operations area to provide an alternate access to the passenger terminal from route 8 on the base's south and southwest boundary. This roadway would also provide a link to a proposed north-south bypass road that would connect the Village of Tamuning with the base and communities located south of the base.

In the southern part of the base, the preferred Alternative would expand mariner Avenue, a northeast-southwest road on the base, and rename it Mariner Parkway. This roadway would provide access to airport-related activities to the north as well as to the industrial and commercial activities and parks and recreational areas to the south. It would also serve as a regional transportation link between the villages of Dededo and Cabras. The Preferred Alternative would expand Seagull Avenue between Mariner Parkway and the intersection of Routes 16, 10, and 8 at the southern tip of the base.

The Preferred Alternative proposed to reserve about 30 acres on the bluff north of the airport, overlooking the village of Tamuning, for parks and recreational uses such as walking paths, bike paths, and picnic areas. On about 340 acres located north and south of the runways and taxiways, this Alternative proposed to develop airport-related commercial facilities. To the north, these facilities could include offices for businesses interested in a prime airport location, a trade exhibition center, a 200-room hotel, and educational facilities such as an hotel school. To the south, just north of the proposed Mariner Parkway, the Preferred Alternative would develop facilities for commercial activities related to the airport such as express package services, an airframe and power plant school, light industrial activities, storage, and freight forwarders.

In the southern part of the base, south of the proposed Mariner Parkway, the Preferred Alternative proposed to develop industrial and commercial activities that would include retail stores to serve the Barrigada community. On about 41 acres, it would develop new recreational facilities and reuse the existing sports facilities as an Olympics training center. The Preferred Alternative designated the Air Station's chapel and religious center and two acres located in the center of the industrial and commercial area for use by homeless assistance providers.

Navy analyzed a second ''action'' alternative, described in the FEIS as Alternative 2, the Airport/Education/Heritage Alternative. Alternative 2 proposed expanding the airport and building extensive roadway improvements similar to those proposed by the Preferred Alternative. In Alternative 2, however, there would be less airport-related development and fewer industrial and commercial activities than proposed in the Preferred Alternative. Instead, the Alternative would emphasize educational and cultural activities and parks and recreational areas and would provide housing.

Alternative 2 would expand the airport's operations by extending both runways and by building two new taxiways. This Alternative would also build a new air traffic control tower, a cargo terminal, a general aviation terminal and service center, aircraft maintenance facilities, and training facilities. It would reserve land for future expansion of the passenger terminal, additional flight kitchens, and aviation businesses such as an express package and cargo hub.

Alternative 2 proposed to build several new roadways to expand other roadways similar to those proposed by the Preferred Alternative. This Alternative would build the Laderan Tiyan Parkway north of the airport's operations area to provide an alternate access to the passenger terminal from Route 8. This roadway would also provide a link to a proposed north-south bypass road that would connect the Village of Tamuning with the base and communities located south of the base.

In the southern part of the base, Alternative 2 would expand Mariner Avenue and rename it Mariner Parkway. This roadway would provide access to airport-related activities to the north as well as to the housing, educational and cultural facilities, industrial and commercial activities, and parks and recreational ares to the south. It would also serve as a regional transportation link between the villages of Dededo and Cabras. Alternative 2 would expand Seagull Avenue between Mariner Parkway and the intersection of Routes 16, 10, and 8 to the south.

In the western part of the base, just south of the officers housing site, Alternative 2 would develop industrial activities. East of the officers housing site, this Alternative would develop educational and cultural facilities and open space an recreational areas. It would also build housing on the bluff north of the airport, overlooking the Village of Tamuning, and establish a parks and recreational area there. In the northeast corner of the base, there would be a large open space and recreational area around the existing ironwood trees.

South of the northeast ends of the runways and taxiways, along the southeast boundary of the Air Station, Alternative 2 would preserve a forest with limestone soil. Along the southwest boundary, from the intersection of Routes 16, 10, and 8, to the southwest ends of the runways and taxiways, it would reserve land for open space and recreation areas. Alternative 2 also proposed to establish a coconut plantation in this area.

South of the proposed Mariner Parkway, Alternative 2 would build an educational and cultural center. This center could include a high school, a vocational training school, and university research facilities. Adjacent to the educational center, this Alternative would build housing and retail stores for students, faculty, and workers. It would also develop industrial activities here. Alternative 2 designated the Air Station's chapel and religious center and two acres located in the educational and cultural area for use by homeless assistance providers.

Navy analyzed a third ''action'' alternative, described in the FEIS as Alternative 3, the Airport/Housing/Community Alternative. Alternative 3 proposed expanding the airport and building extensive roadway improvements similar to those proposed by the Preferred Alternative. In Alternative 3, however, there would be less airport-related development and fewer industrial and commercial activities than proposed in the Preferred Alternative. Instead, this Alternative would emphasize housing and parks and recreational areas and would provide educational and cultural facilities.

Alternative 3 would expand the airport's operations by extending both runways and by building two new taxiways. This Alternative would also build a new air traffic control tower, a cargo terminal, a general aviation terminal and service center, aircraft maintenance facilities, and training facilities. It would reserve land for future expansion of the passenger terminal, additional flight kitchens, and aviation businesses such as an express package and cargo hub.

Alternative 3 proposed to build several new roadways and to expand other roadways similar to those proposed by the Preferred Alternative. This Alternative would build the Laderan Tiyan Parkway north of the airport's operations area to provide an alternate access to the passenger terminal from Route 8. This roadway would also provide a link to a proposed north-south bypass road that would connect the Village of Tamuing with the base and communities located south of the base.

In the southern part of the base, Alternative 3 would expand Mariner Avenue and rename it Mariner Parkway. Under Alternative 3, this roadway would be a local access road rather than a regional transportation link as proposed in the Preferred Alternative. The Parkway would provide access to

the airport-related activities to the north as well as to the housing, educational and cultural facilities, industrial and commercial activities, and parks and recreational areas to the south. Alternative 3 would also expand Seagull Avenue between Mariner Parkway and the intersection of Routes 16, 10, and 8 to the south.

In the western part of the base, south of the officers housing site, Alternative 3 would develop industrial and commercial activities. On the bluff north of the airport, overlooking the Village of Tamuning, Alternative 3 would build cultural and educational facilities such as an hotel school. It also proposed to reserve part of the bluff for open space and recreational areas.

South of the airport operations area, Alternative 3 would preserve a forest with limestone soil on the east side and establish a coconut plantation on the west side. Between the forest and the coconut plantation, on each side of Mariner Parkway, this Alternative would build industrial and commercial facilities for airport-related activities. It would designate the Air Station's chapel and religious center and two acres located in this area for use by homeless assistance providers. South of Mariner Parkway, it would also build single-family and multi-family housing, community facilities, a new high school, and a town center with retail stores for the Barrigada community.

Navy analyzed a fourth ''action'' alternative, described in the FEIS as Alternative 4, the Airport/Requestor Alternative. This Alternative incorporated requests made during the public scoping process that were not included in the Komitea's three reuse proposals. Alternative 4 proposed expanding the airport and building new roads similar to those proposed in the Preferred Alternative. In Alternative 4, however, there would be less airport-related development and fewer industrial and commercial activities than proposed in the Preferred Alternative. Instead, this Alternative would emphasize government and business activities and parks and recreational areas and would provide educational and cultural facilities and housing.

Alternative 4 would expand the airport's operations by extending both runways and by building two new taxiways. This Alternative would also build a new air traffic control tower, a cargo terminal, a general aviation terminal and service center, aircraft maintenance facilities, and training facilities. It would reserve land for future expansion of the passenger terminal, additional flight kitchens, and aviation businesses such as an express package and cargo hub.

Alternative 4 proposed to build several new roadways and to expand other roadways similar to those proposed by the Preferred Alternative. This Alternative would build the Laderan Tiyan Parkway north of the airport's operations area to provide an alternate access to the passenger terminal from Route 8. This roadway would also provide a link to a proposed north-south bypass road that would connect the Village of Tamuning with the base and communities located south of the base.

In the southern part of the base, Alternative 4 would expand Mariner Avenue and rename it Mariner Parkway. Under Alternative 4, this roadway would be a local access road rather than a regional transportation link as proposed in the Preferred Alternative. The Parkway would provide access to the airport-related and government and business activities to the north as well as to the government and business activities, educational and cultural facilities, housing, industrial and commercial activities, and parks and recreational areas to the south. Alternative 4 would also expand Seagull Avenue between Mariner Parkway and the intersection of Routes 16, 10, and 8 to the south.

Alternative 4 proposed to develop about 260 acres located north and south of the runways and taxiways for airport-related commercial activities. This Alternative would reserve land for open space and recreational areas in three locations: south of the officers housing site; on the bluff north of the airport overlooking the Village of Tamuning; and in the northeast part of the base. Additionally, Alternative 4 would build government and private offices on part of the bluff. Educational and cultural facilities would also be built in this area.

In the southern part of the base, on either side of Mariner Parkway, Alternative 4 would develop facilities for government and private offices and retail stores. This Alternative would use the existing barracks in this area for housing. South of the proposed Mariner Parkway, Alternative 4 would develop educational and cultural facilities and reserve land for parks and recreational areas. It also designated the Air Station's chapel and religious center and two acres located in the educational and cultural area for use by homeless assistance providers.

Environmental Impacts

Navy analyzed the direct, indirect, and cumulative impacts of the disposal and reuse of this surplus Federal property. The FEIS addressed the impacts of the Preferred Alternative, the Airport/Education/Heritage Alternative, the Airport/Housing/Community Alternative, the Airport/Requestor Alternative, and the ''No Action'' Alternative for each alternative's effects on soils, drainage, water quality, terrestrial resources, noise, land use compatibility, roads and traffic, infrastructure, air quality, socioeconomics, public services, cultural resources, and environmental contamination. This Record Of Decision focuses on the impacts that would likely result from implementation of the Reuse Plan, identified in the FEIS as the Preferred Alternative.

The Preferred Alternative would not have a significant impact on soils. The requirements that would be imposed by the Guam Environmental Protection Agency would minimize soil erosion resulting from new construction. The potential for contaminating soil during redevelopment would be minimized by complying with regulatory requirements, Best Management Practices (BMP), and spill prevention plans. The base does not lie within a floodplain zone.

The Preferred Alternative would not have a significant impact on stormwater runoff and drainage. While the Preferred Alternative would increase the amount of stormwater runoff by 43 percent as a result of the increase in impervious surfaces, runoff will be managed in accordance with Federal and local regulatory requirements, such as the use of ponding basins that would collect and hold runoff during storms. There is sufficient open space available to accommodate the ponding basins.

The Preferred Alternative would not have a significant impact on the quality of groundwater. The potential for future groundwater contamination would be minimized by complying with regulatory requirements, BMP's, and spill prevention plans.

The Preferred Alternative would not have a significant impact on terrestrial resources. Navy held informal consultations with the United States Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act of 1973, 16 U.S.C § 1536 (1994). In a letter dated November 8, 1999, the Fish And Wildlife Service concurred with Navy's determination that the disposal and reuse of NAS Agana is not likely to adversely affect the Federally-listed endangered Mariana common moorhen (*Gallinula chloropus guami*). The Service's concurrence was based upon Navy's assurance that Navy will erect a fence around a one-acre freshwater

marsh and its upland buffer in the southwestern part of the base and will include a restrictive covenant in the deed requiring maintenance of the upland buffer area around this marsh. In an earlier site visit on September 23, 1999, Navy, the Fish And Wildlife Service, the United States Army Corps of Engineers, the Guam Environmental Protection Agency, the Guam Division of Aquatic and Wildlife Resources, and the Guam Economic Development Authority agreed to incorporate the requirement for a fenced buffer area around this marsh in a restrictive covenant.

The Preferred Alternative would have a significant noise impact on certain residents in Agana Heights and on the Mongmong, Toto, and Maite villages located southwest of the base. Notwithstanding the increase in proposed commercial aviation operations, the exposure to noise from aircraft would be less than when Navy operated military jet aircraft at the base. However, while the substantial reduction in military jet aircraft operations and the introduction of quieter Stage III commercial aircraft would reduce the noise impact, this impact would still exceed the Federal standards for residential exposure to noise in those areas. The Village of Dededo northeast of the airfield would not experience a residential noise impact in excess of Federal standards. The Preferred Alternative did not propose to build any new residential areas.

The nature and extent of mitigation measures to address the noise impacts would be determined in accordance with the Federal Airport Noise Compatibility Planning Regulation set forth at 14 CFR Part 150. Guam's International Airport Authority has received funding from the FAA to proceed with a noise compatibility study that will identify measures to reduce noise levels.

Noise generated by industrial and commercial activities and on roadways could increase compared with pre-closure levels, but this increase is not expected to be substantial. Additionally, noise attenuation treatments can be applied so that noise levels are compatible with adjacent land use. To comply with Guam's environmental regulations, it may be necessary for the acquiring entities to conduct environmental assessments of proposed projects so that project planning incorporates appropriate mitigation for noise impacts.

The Preferred Alternative would not have a significant impact on land use compatibility. The land uses proposed for NAS Agana would be generally compatible with each other and with existing land uses in the adjacent areas. The view of the bluff north of the airport from the Village of Tamuning below could change as a result of building the north-south bypass road and other structures on the bluff. This visual impact would be minimized by selecting a road alignment that requires the least amount of excavation and by imposing building height and setback limits along the bluff.

The Preferred Alternative would have significant impacts on traffic. By the year 2015, this Alternative would generate about 9,000 peak hour trips compared with the 1,358 peak hour trips that were experienced when the base was an active Air Station.

The proposed Laderan Tiyan Parkway would reduce the amount of traffic using Route 1, because it would provide an alternate access route to the passenger terminal at the airport. The proposed north-south bypass road connecting Route 30 and Route 8 would also reduce the amount of traffic using Route 1, because it would provide direct access to the Village of Tamuning and to Tumon Bay from the communities located south of the Air Station. The proposed Mariner Parkway would take some traffic from Routes 8 and 16, by providing an alternate route between the villages of Dededo and Cabras.

Notwithstanding the development of these new roads, the projected level of traffic would still generate substantial delays at nearly all of the intersections along Routes 1, 8, and 16. However, under the ''No Action'' Alternative, traffic delays at the intersections along Route 1 would be greater than those generated by the Preferred Alternative, because neither the proposed Laderan Tiyan Parkway nor the north-south bypass road would be built.

The Preferred Alternative would have significant impacts on potable water pressure, wastewater treatment capacity, and the demand for electricity. This Alternative would also have a significant cumulative impact on solid waste.

While the supply of potable water is greater than the demand that would be generated by the Preferred Alternative, the 10-inch (diameter) water lines on the base do not maintain sufficient water pressure to provide adequate fire protection during peak periods of water use. Consequently, it would be necessary to install additional water lines or replace the 10-inch water lines.

The Government of Guam's Agana Wastewater Treatment Plant does not have any excess capacity that could be used to treat the additional wastewater that would be generated under the Preferred Alternative. However, there is adequate excess capacity to treat wastewater at Guam's Northern District Wastewater Treatment Plant. Consequently, it would be necessary to redirect wastewater from the Agana Plant to the Northern District Plant. Additionally, sections of major sewer lines on the base do not have sufficient capacity to support the proposed redevelopment; thus, it would be necessary to replace those sewer lines.

There is not enough reserve generating capacity on Guam to supply the proposed redevelopment with sufficient electricity. The redevelopment's projected annual consumption of electricity would exceed the Air Station's annual consumption of electricity and would also exceed the available excess generating capacity on the island. As a result, implementation of the Preferred Alternative would require the development of additional facilities to generate and transmit electricity. In addition, it would be necessary to rebuild the electrical distribution infrastructure at NAS Agana to meet the increased demand for electricity.

The Preferred Alternative assumed that the new landfill at Guatali would replace the Ordot Landfill, which has no excess capacity and will close. Solid waste generated by the Preferred Alternative and other planned developments on the island would reduce the projected life of the new landfill. The acquiring entities, however, could take actions recommended by Guam's Integrated Solid Waste Management Plan such as the reuse, recovery, and recycling of solid waste that would reduce the cumulative impact to a less than significant level.

The Preferred Alternative would not have a significant impact on air quality. Compliance with the regulatory requirements that control emissions such as the Clean Air Act, 42 U.S.C. 7401–7671q (1994), and Guam's Air Pollution Control Standards and Regulations, Guam Public Law 24–322 (1998), would prevent significant impacts from stationary sources. If the roadway improvements described in the Reuse Plan were implemented, there would not be a significant regional or local impact on air quality from mobile sources. There would not be a significant impact on air quality from aircraft operations as a result of expanding the airport. However, further analysis by the Guam International Airport Authority would be required to ensure that the proposed increase in airport operations after expansion does

not exceed National Ambient Air Quality Standards.

The Preferred Alternative would not have any adverse impacts on socioeconomic. It would create bout 4,500 jobs that would generate a payroll of about $20 million per year. These jobs would constitute only about 10% of the new jobs to be generated on Guam over the 20-year development period. Because the total projected job growth on Guam would exceed the projected population growth, it would be necessary to bring people to Guam to fill about 25% of the new jobs that would be created. This impact would be spread out over the 20-year development period. Thus, any social effects arising out of the migration of workers would be minimized. There would be sufficient time for the Government of Guam and the business community to develop training programs and employee the business community to develop training programs and employee support services and to ensure that an adequate work force is available when needed.

The Preferred Alternative would have a significant impact on Guam's police and fire protection services. The establishment of new businesses and the development of regional roadways associated with redevelopment of the Air Station would place substantial demands on the police and fire departments. It would be necessary to increase the police and fire department. It would be necessary to increase the police and fire protection budgets by about 20 to 30 percent to satisfy these demands. The Preferred Alternative would not have a significant impact on Guam's health care services.

The Preferred Alternative would not have a significant impact on cultural resources. Pursuant to Section 106 of the National Historic Preservation Act of 1966, U.S.C. 470f (1994), Navy conducted a cultural resource assessment and determined that one archaeological site, Site 1562–T18, is eligible for listing on the National Register of Historic Places. This site is believed to be a temporary occupation site from the early latte period, an historical period for the Mariana Islands between 1200 A.D. and 1700 A.D., prior to European contact. Radiocarbon dating and ceramic analysis establish this site as one of the oldest sites identified on the northern plateau of Guam.

Navy will include protective deed covenants in the conveyance documents to ensure protection and preservation of this archaeological site during redevelopment. In a letter dated May 24, 1999, the Guam Historic Preservation Officer concurred with Navy's determination that there would not be any adverse effect arising out of disposal and reuse of the Air Station if this archaeological site was protected by a deed covenant. In a letter dated July 8, 1999, the Advisory Council on Historic Preservation also concurred with Navy's determination.

The Preferred Alternative would not have a significant impact on the environment arising out of the use of petroleum products or the use or generation of hazardous substances by the acquiring entities. Hazardous materials used and hazardous wastes generated by the Reuse Plan will be managed in accordance with Federal and local laws and regulations.

Implementation of the Preferred Alternative would not have any impact on existing environmental contamination at the Air Station. Navy will inform future property owners about the environmental condition of the property and may, when appropriate, include restrictions, notifications, or covenants in deeds to ensure the protection of human health and the environment in light of the intended use of the property.

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 3 CFR 859 (1995), requires that Navy determine whether any low income and minority populations will experience disproportionately high and adverse human health or environmental effects from the proposed action. Navy analyzed the impacts on low income and minority populations pursuant to Executive Order 12898. The FEIS addressed the potential environmental, social, and economic impacts associated with the disposal of NAS Agana and subsequent reuse of the property under the various proposed alternatives. Minority and low income populations residing within the region will not be disproportionately affected.

Navy also analyzed the impacts on children pursuant to Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks, 3 CFR 198 (1998). Under the Preferred Alternative, there would not be any large concentration of children, because the Reuse Plan emphasizes aviation, industrial, and commercial redevelopment. The Preferred Alternative would not impose any disproportionate environmental health or safety risks on children.

Mitigation

Implementation of Navy's decision to dispose of NAS Agana does not require Navy to implement any mitigation measures. Navy will take certain actions to implement existing agreements and regulations. These actions were treated in the FEIS as agreements or regulatory requirements rather than as mitigation. Navy will erect a fence around the one-acre freshwater marsh and upland buffer in the southwestern part of the Air Station.

The FEIS identified and discussed those actions that will be necessary to mitigate the impacts associated with the reuse and redevelopment of NAS Agana. The acquiring entities, under the direction of Federal and local agencies with regulatory authority over protected resources, will be responsible for implementing necessary mitigation measures.

Comments Received on the Final EIS

Navy did not receive any comments on the Final EIS.

Regulations Governing the Disposal Decision

Since the proposed action contemplates a disposal under the Defense Base Closure and Realignment Act of 1990 (DBCRA), Public Law 101–510, 10 U.S.C. § 2687 note (1994), Navy's decision was based upon the environmental analysis in the FEIS and application of the standards set forth in the DBCRA, the Federal Property Management Regulations (FPMR), 41 CFR Part 101–47, and the Department of Defense Rule on Revitalizing Base Closure Communities and Community Assistance (DoD Rule), 32 CFR Parts 174 and 175.

Section 101–47.303–1 of the FPMR requires that disposals of Federal property benefit the Federal Government and constitute the ''highest and best use'' of the property. Section 101–47.4909 of the FPMR defines the ''highers and best use'' as the use to which a property can be put that produces the highest monetary return from the property, promotes its maximum value, or serves a public or institutional purpose. The ''highest and best use'' determination must be based upon the property's economic potential, qualitative values inherent in the property, and utilization factors affecting land use such a zoning, physical characteristics, other private and public uses in the vicinity, neighboring improvements, utility services, access, road, location, and environmental and historic considerations.

After Federal property has been conveyed to non-Federal entities, the property is subject to local land use regulations, including zoning and subdivision regulations, and building

codes. Unless expressly authorized by statute, the disposing Federal agency cannot restrict the future use of surplus Government property. As as result, the local community exercises substantial control over future use of the property. For this reason, local land use plans and zoning affect determination of the ''highest and best use'' of surplus Government property.

The DBCRA directed the Administrator of the General Services Administration (GSA) to delegate to the Secretary of Defense authority to transfer and dispose of base closure property. Section 2905(b) of the DBCRA directs the Secretary of Defense to exercise this authority in accordance with GSA's property disposal regulations, set forth in Part 101–47 of the FPMR. By letter dated December 20, 1991, the Secretary of Defense delegated the authority to transfer and dispose of base closure property closed under the DBCRA to the Secretaries of the Military Departments. Under this delegation of authority, the Secretary of Navy must follow FPMR procedures for screening and disposing of real property when implementing base closures. Only when Congress has expressly provided additional authority for disposing of base closure property, *e.g.,* the economic development conveyance authority established in 1993 by Section 2905(b) of the DBCRA, may Navy apply disposal procedure other that those in the FPMR.

In Section 2901 of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103–160, Congress recognized the economic hardship occasioned by base closures, the Federal interest in facilitating economic recovery of base closure communities, and the need to identify and implement reuse and redevelopment of property closing installations. In Section 2903(c) or Public Law 103–160, Congress directed the Military Departments to consider each base closure community's economic needs and priorities in this property disposal process. Under Section 2905(b)(2)(E) of the DBCRA must consult with local communities before disposes of base closure property and must consider local plans developed for reuse and redevelopment of the surplus Federal property.

The Department of Defense's goal, as set forth in Section 174.4 of the DoD Rule, is to help base closure communities achieve rapid economic recovery through expeditious reuse and redevelopment of the assets at closing bases, taking into consideration local market conditions and locally developed reuse plans. Thus, the Department has adopted a consultative approach with each community to ensure that property disposal decisions consider the LRA's reuse plan and encourage job creation. As a part of this cooperative approach, the base closure community's interests, as reflected in its zoning for the area, play a significant role in determining the range of alternatives considered in the environmental analysis for property disposal. Furthermore, Section 175.(d)(3) of the DoD Rule provides that the LRA's plan generally will be used as the basis for the proposed disposal action.

The Federal Property and Administrative Services Act of 1949, 40 U.S.C. § 484 (1994), as implemented by the FPMR, identifies several mechanisms for disposing of surplus base closure property: by public benefit conveyance (FPMR Sec. 101–47.303–2); by negotiated sale (FPMR Sec. 10–47.304–9) and by competitive sale (FPMR 101–47.304–7). Additionally, in Section 2905(b)(4), the DBCRA established economic development conveyances as a means of disposing of surplus base closure property.

The selection of any particular method of conveyance merely implements the Federal agency's decision to dispose of the property. Decisions concerning whether to undertake a public benefit conveyance or an economic development conveyance, or to sell property by negotiation or by competitive bid, are left to the Federal agency's discretion. Selecting a method of disposal implicates a broad range of factors and rests solely within the Secretary of the Navy's discretion.

Conclusion

The LRA's proposed reuse of NAS Agana, reflected in the Reuse Plan, is consistent with the prescriptions of the FPMR and Section 174.4 of the DoD Rule. The LRA has determined in its Reuse Plan that the property should be used for various purposes including commercial aviation, industrial, commercial, and parks and recreational activities. The property's location, physical characteristics, existing infrastructure, and use as a civilian airport make it appropriate for the proposed uses.

The proposed reuse of NAS Agana responds to local economic conditions, promotes rapid economic recovery from the impact of the Air Station's closure, and is consistent with President Clinton's Five-Part Plan for Revitalizing Base Closure Communities, which emphasizes local economic redevelopment and creation of new jobs as the means to revitalize these communities, 32 C.F.R. Parts 174 and 175, 59 Fed. Reg. 16,123 (1994).

Although the ''No Action'' Alternative has less potential for causing adverse environmental impacts, this Alternative would not take advantage of the property's location, physical characteristics, and infrastructure. Additional, it would not foster local economic redevelopment of the base and expansion of Guam's International Airport.

The acquiring entities, under the direction of Federal and local agencies with regulatory authority over protected resources, will be responsible for adopting practicable means to avoid or minimize environmental harm that may result from implementing the Reuse Plan.

Accordingly, Navy will dispose of Naval Air Station Agana in a manner that is consistent with the Government of Guam's Reuse Plan for the property.

Dated: May 9, 2000.

William J. Cassidy, Jr.,

Deputy Assistant Secretary of the Navy (Conversion and Redevelopment).

[FR Doc. 00–12964 Filed 5–22–00; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 22, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public

consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB.

Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

Dated: May 15, 2000.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Title: Financial Report for the Endowment Challenge Grant Program (JS).

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden: Responses: 300; Burden Hours: 900.

Abstract: The financial report requires investment data from institutions for the purpose of assessing their progress in increasing their endowment fund resources. The data is also used to monitor compliance with regulatory provisions.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joe Schubart at (202) 708–9266. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–12878 Filed 5–22–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

[CFDA No. 84.326J]

Office of Special Education and Rehabilitative Services; Grant Applications under the Special Education—Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities Program

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2000.

Purpose of Program: The purpose of this program is to provide technical assistance and information through programs that support States and local entities in building capacity to improve early intervention, educational, and transitional services and results for children with disabilities and their families, and address systemic-change goals and priorities.

Eligible Applicants: State and local educational agencies, institutions of higher education, other public agencies, private nonprofit organizations, outlying areas, freely associated States, and Indian tribes or tribal organizations.

Applications Available: May 31, 2000

Deadline for Transmittal of Application: July 17, 2000

Deadline for Intergovernmental Review: September 17, 2000

Estimated Number of Awards: 1

Maximum Award: We will reject and will not consider an application that proposes a budget exceeding $1,900,000 for any single budget period of 12 months. The Assistant Secretary may change the maximum amounts through a notice published in the **Federal Register**.

Project Period: Under this priority, the Assistant Secretary will make one award for a cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. During the second year of the project, the Assistant Secretary will determine whether to continue the Center for the fourth and fifth years of the project period and will consider in addition to the requirements of 34 CFR 75.253(a):

(a) The recommendation of a review team consisting of three experts selected by the Assistant Secretary. The services of the review team, including a two-day site visit to the project, are to be performed during the last half of the project's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the project's budget for year two. These costs are estimated to be approximately $6,000;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The degree to which the project's design and technical strategies demonstrate the dissemination of significant new knowledge.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99; (b) The selection criteria for the priority under this program are drawn from the EDGAR general selection criteria menu. The specific selection criteria for this priority are included in the funding application packet for the applicable competition.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

General Requirements: (a) The Project funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see Section 606 of IDEA).

(b) Applicants and the grant recipient funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see Section 661(f)(1)(A) of IDEA).

(c) The Project funded under this competition must (1) use current research-validated practices and materials, and (2) communicate appropriately with target audiences, including young people, families, State and local agencies, and employers.

(d) The Project funded under this priority must budget for a two-day Project Directors' meeting in Washington, D.C. during each year of the project.

(e) Part III of the application submitted under the priority in this notice, the application narrative, is where an applicant addresses the selection criteria that are used by reviewers in evaluating the application. You must limit Part III to the equivalent of no more than 70 pages using the following standards:

• A ''page'' is 8.5″ x 11″ (on one side only) with one-inch margins (top, bottom, and sides).

• Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, and captions, as well as all text in charts, tables, figures, and graphs.

• If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters per inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography or references, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject your application if—

• You apply these standards and exceed the page limit; or

• You apply other standards and exceed the equivalent of the page limit.

Waiver of Rulemaking

In most instances the Assistant Secretary is required to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priority in this notice.

Priority: Under section 685 of IDEA and 34 CFR 75.105(c)(3) we consider only applications that meet the following priority: *Absolute Priority—Secondary Education and Transition Technical Assistance Center* (84.326J)

Background: Federal activities in support of transition have shifted in focus from a historical emphasis on the needs of students with significant disabilities to a more recent emphasis on students with high-incidence disabilities. Yet, based on the results of the National Longitudinal Transition Study of Special Education Students (NLTS) and data from the Monitoring and State Improvement Program Division of the Office of Special Education Programs (OSEP), it has become apparent that the transition needs of all students with disabilities are not being adequately met.

The transition needs of students with disabilities are reflected in many factors. First, school completion rates for students with disabilities are low, while at the same time, national studies report that students with disabilities who complete high school are more likely to be employed, to earn higher wages, and to enroll in postsecondary education and training. Second, the labor market demands higher levels of education and skills, and the completion of high school and further education become even more critical. Third, practitioners lack knowledge about integrating academic and career preparation into a seamless, individualized education program for youth with disabilities. Finally, general education initiatives have increased public accountability through more rigorous curriculum standards, large-scale assessment of student performance in relation to those standards, and increased graduation requirements.

To help meet demands for improved results, the IDEA Amendments of 1997 put forth a broader vision of secondary education with greater emphasis on participation and involvement in the general curriculum as a means to improve educational results for students with disabilities and to increase their rates of high school completion. Moreover, earlier transition planning is expected to result in improved postsecondary education participation and employment rates. To achieve this vision of improved postschool outcomes, collaborative partnerships must be developed among multiple systems, such as education, vocational rehabilitation, workforce development, health, social security, housing, and transportation.

To ensure full implementation of IDEA and to achieve quality education and transition results for students with disabilities and their families, Congress found that National technical assistance, support, and dissemination activities were necessary. For that reason, the Secondary Education and Transition Technical Assistance Center (SETAC) will be established to carry out activities that are national in scope, coordinated with other technical assistance and dissemination efforts, and aligned with other Federally-funded synthesis and research centers and institutes in order to avoid duplication. The goals of this Center are to:

(a) Promote secondary education and transition models that integrate academic, career, work-based, and community-based learning;

(b) Support State and local capacity building to improve education and transition results for youth with disabilities;

(c) Promote systemic change by facilitating school and community-based linkages in the provision of transition services to youth with disabilities; and

(d) Translate research into practice by using technical assistance and dissemination mechanisms.

The Center will be responsible for a wide range of work, including developing products and materials, conducting technical assistance activities that are topic-specific, and disseminating information about research-based models and practices. The Assistant Secretary is particularly interested in projects that engage the active participation of multiple partners.

Priority: The Assistant Secretary establishes an absolute priority to support a Center that will identify and promote effective policy and practice to improve secondary education and transition results for children with disabilities. At a minimum, this project must—

(a) Provide technical assistance and information by:

(1) Developing a network of researchers, technical assistance providers, and disseminators of research-based and promising practices to facilitate transition from post-secondary education, work, and independent living. This network must:

(i) Work collaboratively with other researchers, technical assistance providers, and disseminators to:

(A) Coordinate technical assistance and dissemination activities;

(B) Develop communication and dissemination strategies; and

(C) Develop products that include research findings and promising practices, including findings from OSEP-supported research and lessons from the School-to-Work program and other Federal youth transition programs, and are designed to broaden the capacity of technical assistance and information providers, particularly regular and special education technical assistance and information providers;

(ii) Include, at a minimum, Federally-funded national research institutes, technical assistance providers, and disseminators that address secondary education and transition issues. These entities may include, for example, the Research Institute for Secondary Education Reform; the Institute for Academic Access; the Center for Promoting What Works; the National Center for Education Outcomes; Regional Resource Centers (RRCs); the National Information Center on Children and Youth with Disabilities (NICHCY); the National Center on the Study of Postsecondary Education Supports; the National Clearinghouse on Postsecondary Education for Individuals with Disabilities (HEATH); the National Institute on Disability and Rehabilitation Research; and Rehabilitation Research and Training Centers, as well as researchers, technical

assistance providers, and disseminators from regular education, such as the National Dissemination Center for Career and Technical Education and other related projects.

(2) Targeting, through proactive strategies and coordination with the IDEA Partnerships, organizations of policymakers, service providers, local-level administrators, and families. Targeted technical assistance must:

(i) Include policy and practice briefs explaining comprehensive secondary education and transition service requirements, and other emerging issues, trends, and legislation;

(ii) Include tools based on (i) above to assist in implementing research-based best practices; and

(iii) Be designed to use research-based and promising practices to:

(A) Improve academic results in secondary education;

(B) Improve transition practice;

(C) Increase postsecondary education participation rates and employment rates; and

(D) Prevent dropouts and increase high school completion rates.

(3) Conducting, in consultation with OSERS, a dynamic and innovative national summit in years two and four of the project. The summit must:

(i) Be designed to:

(A) Identify research-based and promising practices and initiate discussion on emerging issues and trends that affect postsecondary results for youth with disabilities, particularly through secondary education and transition services; and

(B) Sustain development and implementation of systems linkages and systems collaboration for effective transition; and

(ii) Include participants who are national experts in the field or key representatives of Federal agencies, and national organizations, and participants who represent local level leadership, families, employers, and persons with disabilities; and

(iii) Support systemic collaboration among SEAs, LEAs, and Federal education and workforce development programs including Healthy and Ready to Work, Youth Opportunity Grants, Youth Councils established under the Workforce Investment Act, relevant Social Security Administration programs, related Rehabilitation Services Administration and National Institute on Disability and Rehabilitation Research programs, relevant mental health programs, and other related programs and projects.

(4) Designing and implementing capacity-building training institutes on improving results for youth with disabilities, participation and involvement in the general curriculum, self-determination, interagency collaboration, implementation of the transition requirements of IDEA, and strategies for addressing other identified needs. The purpose of the training institutes is to assist technical assistance providers and disseminators to reach front-line service providers. The institutes must:

(i) Help develop, implement, and sustain systemic changes in secondary special education and transition services, that will improve results for all youth with disabilities and their families, including youth from minority backgrounds and youth with limited English proficiency;

(ii) Provide training for RRCs, HEATH, NICHCY, IDEA Partnership Projects, Parent Training Centers, and national technical assistance providers and disseminators; and

(iii) Provide targeted assistance to State technical assistance and information systems, including systems change projects. Targeted assistance includes training and technical assistance activities for implementing research-based practices, increasing participation in the general education curriculum and in large-scale assessments, developing effective interagency collaborations, and sustaining systemic change.

(b) Use state of the art technologies, such as accessible and interactive web sites, list servs, chat rooms, and video-conferencing, in providing technical assistance and disseminating information, including technical assistance and information on research-based and promising practices.

(c) Design and carryout a strategic management plan, including project evaluation. This plan must be designed to provide information to guide necessary, ongoing refinements to the structure, activities, and products that will improve the impact and effectiveness of the Center and will be collaboratively developed with the OSEP project officer and other Federal officials, customers, and network members during the first three months of the project. This plan must include:

(1) Annual data collection activities for needs assessments if extant data are not available;

(2) A clear description of effective strategies for meeting and evaluating project goals and activities;

(3) Goals, objectives, and activities that support the IDEA Government Performance Results Act (GPRA) Performance Plan; and

(4) Procedures for measuring the impact of the Center on its primary purpose—to identify and promote effective policy and practice for secondary education and transition services for youth with disabilities.

(d) Support, through internships or other collaborative arrangements, graduate students who will concentrate their studies in secondary special education or transition services and who show promise for continued service in leadership positions. These graduate students must be involved with all aspects of project activity.

(e) Meet with the OSEP project officer in the first four months of the project to review the needs assessment, evaluation plan, technical assistance, and dissemination approaches and the plan for collaboration with various network members.

(f) Budget three trips annually to Washington, DC (two trips to meet and collaborate with U.S. Department of Education officials and one trip, as specified in the general requirements, to attend the two-day Office of Special Education Programs Technical Assistance Project Directors' Conference).

Competitive Preferences: Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, the Assistant Secretary can consider the applicant's past success in pursuit of this goal.

For purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

FOR APPLICATIONS CONTACT: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, Maryland 20794–1398. Telephone (toll free): 1–877–4ED–Pubs (1–877–433–7827). FAX: 301–470–1244. Individuals who use a telecommunications device for the deaf (TDD) may call (toll free) 1–877–576–7734.

You may also contact Ed Pubs via its Web site http://www.ed.gov/pubs/edpubs.html or its e-mail address edpubs@inet.ed.gov

If you request an application from Ed Pubs be sure to identify the competition as follows: CFDA 84.326J.

FOR FURTHER INFORMATION CONTACT: Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, S.W., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 260–9182.

If you use a TDD you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the Department at the address listed. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Intergovernmental Review

The program in this notice is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, we intend this document to provide early notification of the Department's specific plans and actions for those programs.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

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

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at:

http://www.access.gpo.gov/nara/index.html

Dated: May 17, 2000.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 00–12923 Filed 5–22–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Office of Environmental Management; Environmental Management Site-Specific Advisory Board; Notice of Renewal

Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act (Pub. L. 92–463), and in accordance with title 41 of the Code of Federal Regulations, Section 101–6.1015(a), and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Environmental Management Site-Specific Advisory Board has been renewed for a two-year period beginning May 16, 2000.

The purpose of the Board is to provide the Assistant Secretary for Environmental Management with advice and recommendations on environmental management projects and issues such as future use, risk management, transportation, long-term stewardship, and budget prioritization activities, from the perspective of affected groups and State and local government. Board membership will reflect the full diversity of views in the affected community and region and be composed primarily of people who are directly affected by Department of Energy (DOE) site cleanup activities. Members will include potentially affected and interested stakeholders from local government, Indian Tribes, environmental and civic groups, labor organizations, universities, waste management and environmental restoration firms, and other interested parties. Representatives from the DOE, the Environmental Protection Agency, and State governments will be ex-officio members of the Board. Selection and appointment of Board members will be accomplished using procedures designed to ensure diverse membership and a balance of viewpoints. Consensus recommendations to the DOE from the Board on the resolution of numerous and difficult issues will help achieve DOE's objective of an integrated environmental management program.

The Secretary of Energy has determined that renewal of the Environmental Management Site-Specific Advisory Board is necessary in order to conduct DOE's business and is in the public interest. The Board will operate in accordance with the provisions of the Federal Advisory Committee Act, and the rules and regulations issued in the implementation of those acts.

Further information regarding this advisory board may be obtained from Rachel M. Samuel at (202) 586–3279.

Issued in Washington DC on May 16, 2000.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. 00–12933 Filed 5–22–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Competitive Financial Assistance for the Office of Defense Nuclear Nonproliferation

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of Financial Assistance Solicitation DE–PS01–00NN20115; Biological Detection and Enabling Science.

SUMMARY: The Office of Research and Engineering (NN–20) of the Office Defense Nuclear Nonproliferation (NN), U.S. Department of Energy (DOE), hereby announces its interest in receiving grant applications for its Chemical and Biological Nonproliferation Program. Research is sought for experimental and computational studies for biological detection and the underlying enabling science.

DATES: The formal solicitation document, which will include greater detail about specific program areas of interest, application instructions, and evaluation criteria, is expected to be issued in early June 2000. Potential applicants are strongly encouraged to submit a brief two to four page pre-application. All pre-applications, referencing solicitation DE–PS01–00NN20115, should be received by DOE by 2:30 p.m., EST, June 23, 2000. A response encouraging or discouraging the submission of a formal application will be communicated by electronic mail by June 30, 2000. The due date for applications in response to the formal solicitation will be 2:30 p.m., EST, July 28, 2000.

ADDRESSES: Both pre-applications and applications should be submitted electronically through the Department's Industry Interactive Procurement System (IIPS) located at *http://doe-iips.pr.doe.gov.* Further information and

instructions for using the IIPS system are provided under the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: David Leotta, U.S. Department of Energy, Office of Headquarters Procurement Services, ATTN: MA–542, 1000 Independence Ave., SW, Washington, DC 20585, telephone number (202) 426–0063, facsimile number (202) 426–0168 or e-mail at: *David.Leotta@hq.doe.gov.* Questions or comments related to using the Industry Interactive Procurement System (IIPS) should be directed to the IIPS help-line at 1–800–683–0751. The preferred method of submitting questions is through e-mail. Only questions and/or comments submitted to Mr. Leotta will be considered. Questions or comments that are technical in nature will be directed by Mr. Leotta to the program office.

SUPPLEMENTARY INFORMATION: The formal solicitation document will be disseminated electronically as solicitation number DE–PS01–00NN20115 through the Department's Industry Interactive Procurement System (IIPS) located on the *Doing Business with DOE* Homepage located at *http://doe-iips.pr.doe.gov.* This is the primary way for the Office of Headquarters Procurement Services to conduct competitive acquisitions and financial assistance transactions. IIPS provides the medium for disseminating solicitations, receiving financial assistance applications and proposals, evaluating, and awarding various instruments in a paperless environment. To get more information about IIPS and to register your organization, go to *http://www.doe-iips.pr.doe.gov.* Click on one of the buttons on the left-hand side of the screen (information, register, log-in or browse IIPS). Registration is a prerequisite to the submission of an application, and applicants are encouraged to register as soon as possible. A help document, which describes how IIPS works, can be found at the bottom of the main page.

The Chemical and Biological Nonproliferation Program (CBNP) is an applied research and development program that seeks to develop advanced technologies and capabilities to counter the domestic chemical and biological threat. The program supports a diverse set of technology development efforts and related demonstration programs in areas including: biological detection, modeling, decontamination and the underlying biological sciences. Additional information on the program content and context are available on the CBNP website at: *www.nn.doe.gov/cbnp.*

Biological Detection and Enabling Science

A key component in the U.S. strategy to counter the threat posed by biological agents is biological detection. Early detection of a biological attack whether by direct detection of airborne biological agents, or rapid detection of those who have been exposed (pre-symptomatic) is essential to minimize the impact of such attacks. The DOE program is investing in technological approaches that have the potential to provide rapid detection of a suite of agents with high sensitivity and high selectivity. The existing portfolio of CBNP-supported projects are described on the CBNP website (*www.nn.doe.gov/cbnp*).

The CBNP is interested in projects that will further the knowledge of, and lead to improvements in, and techniques to bind and recognize specific biological pathogens. Selected projects will contribute to the public purpose by enhancing the understanding of the general scientific area of biological recognition, and will complement existing detector development projects underway within the CBNP. We are particularly interested in approaches that would ultimately lead to improved biological detection through higher sensitivity, specificity or shelf-live of reagents, or via decreased dependence on reagent use or sample preparation. Technological approaches need not be antigen-based, but may include nucleic acid recognition or other possible mechanisms.

Examples of possible topics include, but are not limited to:

- Structurally-based ligand design
- Molecularly imprinted polymers
- Combinatorial receptor design
- Phage display

Preference will be given to those applications that seek to develop approaches that will have broad generality to classes of pathogens. In addition, applications that propose to use biological targets relevant to the CBNP mission will be preferred over those that focus loosely on surrogate compounds.

The Statutory authority for this program is listed under the Catalog of Federal Domestic Assistance Number 81.113.

Carol M. Rueter,

Director, Division C, Office of Headquarters Procurement Services.

[FR Doc. 00–12932 Filed 5–22–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–006]

Columbia Gulf Transmission Company; Notice of Negotiated Rate Filing

May 17, 2000.

Take notice that on May 10, 2000, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing the following contract for disclosure of a recently negotiated rate transaction:

FTS–1 Service Agreement No. 68346 between Columbia Gulf Transmission Company and Williams Energy Marketing & Trading Company, dated May 8, 2000

Columbia Gulf requests an effective date of June 1, 2000 for this negotiated rate agreement.

Columbia Gulf states that copies of the filing have been served on all parties on the official service list created by the Secretary in this proceeding.

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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–12861 Filed 5–22–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–222–001]

Northern Natural Gas Company; Notice of Compliance Filing

May 17, 2000.

Take notice that on May 11, 2000, Northern Natural Gas Company (Northern), tendered for filing in its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective Marcy 27, 2000:

Substitute Fifth Revised Sheet No. 286
Substitute Fourth Revised Sheet No. 288

Northern states that the purpose of this filing is to comply with the Commission's Order of April 26, 2000 in Docket No. RP00–222–000. Northern is filing revised tariff sheets to clarify that there are no maximum rates for short-term capacity releases, that all releases for more than one month must be posted, and to include the sunset date of September 30, 2002, for the price cap waiver.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest this 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 as provided in 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–12863 Filed 5–22–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–2320–000]

Pacific Gas and Electric Company; Notice of Filing

May 17, 2000.

Take notice that on April 27,2000, Pacific Gas and Electric Company (PG&E), tendered for filing the Small Facilities Authorization Letter No. 4, submitted pursuant to the Procedures for Implementation (Procedures), of Section 3.3 of the 1987 Agreement between PG&E and the City and County of San Francisco (City). This is PG&E's third quarterly filing submitted pursuant to Section 4 of the Procedures, which provides for the quarterly filing of Facilities Authorization Letters.

The Facilities Authorization Letter streamlines the procedures for filing numerous Facilities, and facilitates payment of PG&E's costs of designing, constructing, procuring, testing, placing in operation, owning, operating and maintaining the customer-specific Facilities required for firm transmission and distribution service requested by City under this Facilities Authorization Letter.

PG&E has requested certain waivers.

Copies of this filing have been served upon City and the CPUC.

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 30, 2000. 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–12857 Filed 5–22–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–239–001]

Pine Needle LNG Company, LLC; Notice of Compliance Filing

May 17, 2000.

Take notice that on May 11, 2000 Pine Needle LNG Company, LLC (Pine Needle) tendered for filing information fully supporting the increase in its electric power cost rate. Pine Needle asserts that the purpose of this filing is to comply with the Commission's letter order dated April 26, 2000, in Docket No. RP00–239–000.

Any person desiring to protest this filling should file a protest with 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 as provided in 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://ww.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–12864 Filed 5–22–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–224–001]

Transwestern Pipeline Company; Notice of Compliance Filing

May 17, 2000.

Take notice that on May 11, 2000, Transwestern Pipeline Company (Transwestern), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, proposed to be effective March 27, 2000:

Substitute Sixth Revised Sheet No. 95E
Substitute Third Revised Sheet No. 95I
Substitute Fifth Revised Sheet No. 95K

Transwestern states that this filing is made to: (1) Comply with the Commission's April 26, 2000 order

accepting Transwestern's March 27, 2000 filing, subject to Transwestern's submitting within 15 days of such order, tariff sheets consistent with the requirements of Order No. 637; and (2) to clarify its tariff provisions to allow a releasing shipper to subject its prearranged deal at maximum rates or above maximum rates to further posting and bidding if it desires.

Transwestern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest this 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 as provided in 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–12862 Filed 5–22–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–129–011]

Trunkline Gas Company; Notice of Compliance Filing

May 17, 2000.

Take notice that on May 11, 2000, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following pro forma tariff sheets:

Pro Forma Sheet No. 79

Trunkline states that the purpose of this filing is to comply with the Commission's Opinion No. 441 and Order on Initial Decision, 90 FERC ¶ 61,017 (2000) in the above referenced proceeding. This filing reflects Trunkline's proposal to liberalize the current directional limitations on its TABS–1 transfer service.

Trunkline states that copies of this filing are being served on all affected customers, applicable state regulatory agencies and parties to this proceeding.

Any person desiring to protest this 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 as provided in 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–12860 Filed 5–22–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 935, Project No. 2071, Project No. 2111, and Project No. 2213]

PacifiCorp; Public Utility District No. 1 of Cowlitz County; Notice of Scoping Meetings and Tour of Projects Pursuant to the National Environmental Policy Act of 1969 for an Applicant Prepared Environmental Assessment

May 17, 2000.

The Commission's regulations allow applicants the option of preparing their own Environmental Assessment (EA) for hydropower projects, and filing the EA with their application as part of an alternative licensing procedure. [1] On April 1, 1999, the Commission approved the use of an alternative licensing procedure in the preparation of a new license application for PacificCorp's Merwin, Yale, and Swift No. 1 Projects, and Public Utility District No. 1 of Cowlitz County's (Cowlitz PUD) Swift No. 2 Project; project numbers. 935, 2071, 2111, and 2213, respectively. The Commission has also accelerated the Merwin license expiration and is delaying action on the Yale application (filed May 5, 1999) so all four projects can be relicensed at the same time.

The alternative procedures include provisions for the distribution of an initial information package (IIP), and for the cooperative scoping of environmental issues and needed studies. PacifiCorp and Cowlitz PUD (licensees) distributed the IIP on March, 8 2000. During the week of May 15, 1999, the licensees will distribute a Scoping Document (SD1). [2] Two public meetings will be held to discuss these documents.

Scoping Meetings

The licensees will hold public scoping meetings on June 21, 2000, pursuant to the National Environmental Policy Act (NEPA) of 1969. At the scoping meetings, the licensees will: (1) Briefly summarize the material presented in the scoping document and the environmental issues tentatively identified in the scoping document for analysis in the EA; (s) outline any resources they believe would not require a detailed analysis; (3) identify reasonable alternatives to be addressed in the EA; (4) solicit from the meeting participants all available information, especially quantitative data, on the resources at issue; and (5) encourage statements from experts and the public on issues that should be analyzed in the EA.

Although the licensees intent is to prepare an EA, there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

The times and locations of the scoping meetings are:

Daytime Scoping Meeting

June 21, 2000, 9 a.m. to 4 p.m., Oak Tree Restaurant, Woodland, Washington.

Evening Scoping Meeting

June 21, 2000, 6 p.m. to 8 p.m., Oak Tree Restaurant, Woodland, Washington.

All interested individuals, organizations, and agencies are invited and encouraged to attend any or all of the meetings to assist in identifying and clarifying the scope of environmental issues that should be analyzed in the EA.

Project Tour

A public tour of the projects is scheduled for June 22, 2000. The tour will begin at the Merwin Project headquarters in Ariel, Washington. Those interested in the project tour

[1] 81 FERC ¶ 61,103 (1997).

[2] Copies of these documents can be obtained by calling Frank Shrier of PacifiCorp at 503–813–6622 or Diana Macdonald of Cowlitz PUD at 360–577–7578.

should contact Frank Shrier at 503–813–6622.

Scoping Meeting Procedures

The meetings will be conducted according to the procedures used at Commission scoping meetings in that the meetings will be recorded. Because these will be NEPA scoping meetings under the ALP, the Commission does not intend to conduct further NEPA scoping meetings after the applications and EA are filed with the Commission. Instead, Commission staff will participate in the meetings on June 21, 2000.

Both scoping meetings will be recorded, and the transcripts will become part of the formal record for this project. Those who choose not to speak during the scoping meetings may instead submit written comments on the project. Written comments should be mailed or e-mailed to:

Frank Shrier, PacifiCorp, 825 NE Multnomah, Suite 1500, Portland, OR 97232; frank.shrier@pacificorp.com

Diana MacDonald, Cowlitz County PUD, Box No. 3007, 961 12th Avenue, Longview, WA 98632; dmacdonald@cowlitzpud.org

Commenting Deadline

All correspondence should be postmarked no later than July 17, 2000. Comments should show the following caption on the first page: Scoping Comments, Lewis River Projects, Project Nos. 935, 2071, 2111, 2213.

For further information please contact Vince Yearick of the Commission at (202) 219–3073 or vince.yearick@ferc.fed.us

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–12859 Filed 5–22–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Approval of 1997 Pacific Northwest Coordination Agreement as a Headwater Benefits Settlement Agreement, and Soliciting Comments, Motions To Intervene, and Protests

May 17, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Coordination Agreement as Headwater Benefits Settlement Agreement.

b. *Docket No:* HB02–00–1.

c. *Date Filed:* February 2, 2000.

d. *Applicant:* Public Utility District No. 1 of Chelan County, Washington on its own; and eight other non-federal parties to the agreement.

e. *Name of Project:* 1997 Pacific Northwest Coordination Agreement (PNCA).

f. *Project Location:* PNCA covers ten non-federal hydropower projects licensed by the Commission in Flathead, and Sanders Counties in Montana, Bonner County in Idaho, Chelan, Douglas, and Pend Oreille Counties in Washington, and Lane and Clackamas Counties in Oregon.

g. *Filed Pursuant to:* 18 CFR 11.14(a)(1) and Rule 602 of the Commission's Rules of Practice and Procedure.

h. *Applicant Contact:* Mr. Roger A. Braden, General Manager, Public Utility District No. 1 of the Chelan County, P.O. Box 1231, Wenatchee, WA 99807–1231. Tel: (509) 663–8121.

i. *FERC Contact:* Any questions on this notice should be addressed to Vedula Sarma at (202) 219–3273 or by e-mail at vedula.sarma@ferc.fed.us.

j. *Deadline for filing comments and/or motions:* June 23, 2000.

Please include the docket number (HB02–00–1) on any comments or motions filed.

k. *Description of filing:* The 1997 PNCA is intended to supersede and replace the 1964 PNCA previously approved by the Commission, for the coordinated operation of a system publicly and privately owned hydroelectric generating plants and related transmission facilities through the year 2024. Section 12 of the 1997 PNCA, just like its predecessor, provides a method to calculate headwater benefits payments based upon coordinated storage releases from upstream reservoirs controlled by dams in the United States. The payments provided by section 13 are intended to constitute full satisfaction of obligations under section 10(f) of the Federal Power Act.

l. *Location of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm [call (202) 208–2222 for assistance]. A copy is also available for inspection and reproduction at the address in item g above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission, David P. Boergers, 888 First Street NE, Washington DC 20426.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–12858 Filed 5–22–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6704–6]

Agency Information Collection Activities; Submission of EPA ICR No. 0574.11 to OMB

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the Information Collection Request (ICR) entitled: ''Pre-Manufacture Review Reporting and Exemption Requirements for New Chemical Substances and Significant New Use Reporting Requirements for Chemical Substances'' (EPA ICR No. 0574.11; OMB Control No. 2070–0012) has been forwarded to the Office of Management and Budget (OMB) for review and approval pursuant to the OMB procedures in 5 CFR 1320.12. The ICR, which is abstracted below, describes the nature of the information collection and its estimated cost and burden. The Agency is requesting that OMB renew for 3 years the existing approval for this ICR, which is scheduled to expire on May 31, 2000. A **Federal Register** notice announcing the Agency's intent to seek the renewal of this ICR and the 60-day public comment opportunity, requesting comments on the request and the contents of the ICR, was issued on September 13, 1999 (64 FR 49484). EPA received no comments on this ICR during the comment period.

DATES: Additional comments may be submitted on or before June 22, 2000.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone on (202) 260–2740, by e-mail: ''farmer.sandy@epamail.epa.gov,'' or download off the Internet at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 0574.11.

ADDRESSES: Send comments, referencing EPA ICR No. 0574.11 and OMB Control No. 2070–0012, to the following addresses:

(1) Ms. Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code: 2822), 1200 Pennsylvania Avenue, N.W., Washington, DC 20460; and

(2) Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, N.W., Washington, DC 20503.

SUPPLEMENTARY INFORMATION:

Review Requested: This is a request to renew a currently approved information collection pursuant to 5 CFR 1320.12.

ICR Numbers: EPA ICR No. 0574.11; OMB Control No. 2070–00012.

Title: Pre-Manufacture Review Reporting and Exemption Requirements for New Chemical Substances and Significant New Use Reporting Requirements for New Chemical Substances.

Abstract: Section 5 of the Toxic Substances Control Act (TSCA) requires manufacturers and importers of new chemical substances to submit to EPA notice of intent to manufacture or import a new chemical substance 90 days before manufacture or import begins. EPA reviews the information contained in the notice to evaluate the health and environmental effects of the new chemical substance. On the basis of the review, EPA may take further regulatory action under TSCA, if warranted. If EPA takes no action within 90 days, the submitter is free to manufacture or import the new chemical substance without restriction.

TSCA section 5 also authorizes EPA to issue Significant New Use Rules (SNURs). EPA uses this authority to take follow-up action on new or existing chemicals that may present an unreasonable risk to human health or the environment if used in a manner that may result in different and/or higher exposures of a chemical to humans or the environment. Once a use is determined to be a significant new use, persons must submit a notice to EPA 90 days before beginning manufacture, processing or importation of a chemical substance for that use. Such a notice allows EPA to receive and review information on such a use and, if necessary, regulate the use before it occurs.

Finally, TSCA section 5 also permits applications for exemption from section 5 review under certain circumstances. An applicant must provide information sufficient for EPA to make a determination that the circumstances in question qualify for an exemption. In granting an exemption, EPA may impose appropriate restrictions.

Responses to the collection of information are mandatory (see 40 CFR parts 700, 720, 721, 723 and 725). Respondents may claim all or part of a document confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden Statement: The annual public reporting burden for this collection of information is estimated to average 105.5 hours per response for an estimated 443 respondents making one or more submissions of information annually. These estimates include 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. No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for these regulations are displayed in 40 CFR part 9.

Respondents/Affected Entities: Entities potentially affected by this action are companies that manufacture or import new chemical substances, as defined by TSCA, or manufacture, process or import a chemical substance for a use that has been determined to be a significant new use, as defined by TSCA.

Estimated Number of Respondents: 443.

Estimated Total Annual Burden on Respondents: 184,608 hours.

Frequency of Collection: On occasion.

Dated: May 16, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–12956 Filed 5–22–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6704–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Standards of Performance for New Stationary Sources (NSPS) Wool Fiberglass Insulation Manufacturing and National Emission Standards for Hazardous Air Pollutants (NESHAP)—Maximum Achievable Control Technology (MACT) for Source Categories Wool Fiberglass Manufacturing Plants

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 the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Combined ICR for NSPS, Standards of Performance for New Stationary Sources, Wool Fiberglass Insulation Manufacturing, 40 CFR part 60, subpart PPP, expiration date 8/31/00; and NESHAP–MACT for Wool

Manufacturing, 40 CFR part 63, subpart NNN, expiration date 8/31/00. For identification purposes, this combined ICR will continue to use OMB Control Number 2060–0114 and EPA ICR No. 1160.06, which formerly was applicable to NSPS, subpart PPP. OMB Control Number 2060–0359 and EPA ICR Number 1795.01 had been used for NESHAP–MACT Subpart NNN and will no longer be valid. This ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 22, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy @epamail.epa.gov or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1160.06. For technical questions about the ICR contact Gregory Fried at EPA by phone at (202) 564–7016 or by email at *fried.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION:

Title: NSPS Subpart PPP, Standards of Performance for New Stationary Sources—Wool Fiberglass Insulation Manufacturing and NESHAP–MACT Subpart NNN, National Emission Standards for Hazardous Air Pollutants—Wool Fiberglass Manufacturing, OMB Control Number 2060–0114, EPA ICR No. 1160.06. This is a request for extension of two currently approved collections which will be combined into one collection.

Abstract: Plants subject to NSPS Subpart PPP and/or NESHAP–MACT Subpart NNN must provide notifications to EPA of construction, modification, startups, shut downs, date and results of initial performance tests and provide semiannual reports of excess emissions. Owners/operators of wool fiberglass manufacturing facilities subject to NSPS Subpart PPP and/or NESHAP–MACT, Subpart NNN must also record continuous measurements of control device operating parameters.

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 **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published October 29, 1999 for NSPS Subpart PPP and January 21, 2000 for NESHAP–MACT Subpart NNN in **Federal Register**. No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for the collection of information for these two standards on existing wool fiberglass manufacturing facilities is estimated to average 149 hours per response. 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: Wool Fiberglass Insulation Manufacturing Plants for NSPS, Subpart PPP and/or Wool Fiberglass Manufacturing Plants for NESHAP–MACT Subpart NNN

Estimated Number of Respondents: 29.

Frequency of Response: Initial and semiannual.

Estimated Total Annual Hour Burden: 19,098

Estimated Total Annualized Capital and Operating & Maintenance Cost Burden: $496,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1160.06 and OMB Control No. 2060–0114 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Ave., NW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: May 20, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–12957 Filed 5–22–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6703–9]

Science Advisory Board; Notification of Public Advisory Committee Meeting; Meeting Date Correction

Incorrect meeting dates were announced for one of the two Science Advisory Board Executive Committee (EC) meetings at 65 FR 30589–30591, dated May 12, 2000. The meeting was originally announced for Monday, June 12, 2000. The meeting should have been announced for Friday, June 16, 2000. There are no changes to the other EC meeting (scheduled for May 30, 2000) or the Drinking Water Committee meeting (scheduled for June 5–7, 2000) announced in that FR.

The correct meeting announcement information is below.

The Executive Committee (EC) of US EPA's Science Advisory Board will conduct a public teleconference meeting on Friday, June 16, 2000. Additional instructions about how to participate in the conference call can be obtained by calling Ms. Priscilla Tillery-Gadson no earlier than one week prior to the meeting (beginning June 9) at (202) 564–4533, or via e-mail at *tillery.priscilla@epa.gov.*

Availability of Review Materials—Drafts of the reports that will be reviewed at the meeting should be available to the public at the SAB website (http://www.epa.gov/sab) by close-of-business on June 1, 2000.

Dated: May 16, 2000.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 00–12793 Filed 5–22–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PF–941; FRL–6557–1]

Notice of Filing Pesticide Petitions to Establish Tolerances for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition

proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF–941, must be received on or before June 22, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–941 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Sheila Moats, EPA Biopesticides and Pollution Prevention Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–1259; e-mail address: moats.sheila@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production.
	112	Animal production.
	311	Food manufacturing.
	32532	Pesticide manufacturing.

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–941. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–941 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: *''opp-docket@epa.gov,''* or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–941. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petitions. Additional data may be needed before EPA rules on the petitions.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 4, 2000.

Kathleen D. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summaries of Petitions

The petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioner and represents the view of the petitioner. The petition summaries announce the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Natural Plant Products S.A.

0F6073

EPA has received a pesticide petition 0F6073 from Natural Plant Products S.A., Route d'Artix, B.P. 80, 64150 Nogueres, France, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for biochemical pesticide Geraniol [3,7-dimethyl-[E]-2,7-octadien-1-ol] in or on all raw agricultural commodities (RACs).

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Natural Plant Products S.A. has submitted the following summaries of information, data, and arguments in support of their pesticide petitions. The summaries were prepared by Natural Plant Products S.A. and EPA has not fully evaluated the merits of the pesticide petitions. The summaries may have been edited by EPA, if the terminology used was unclear, the summaries contained extraneous material, or the summaries unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner.

A. Product Name and Proposed Use Practices

Geraniol will be incorporated into the end-use product Biomite as an active ingredient. Biomite is proposed for use as a foliar spray for the control of Tetranychid mites on a variety of agricultural and greenhouse crops. The product is used at the first appearance of spider mite activity on a particular crop, subsequent applications are made as required but not sooner than every 7 days. The application rates of 76 oz in 200 gallons to 20 oz in 50 gallons/per acre equate to 0.085—0.315 oz of Geraniol per acre.

B. Product Identity/Chemistry

Geraniol is a Monoterpene alcohol which is found in over 250 essential oils, and as a semiochemical in more than 14 species of insects encompassing 7 families from 5 orders. It is a colorless to pale yellow oily liquid with a sweet, rose odor. Geraniol is listed at 40 CFR 152.25(g) as a minimum risk pesticide active ingredient.

C. Mammalian Toxicological Profile

The toxicological profile of Geraniol is, acute oral two studies LD_{50} 3.6 grams/kilograms (g/kg) and 4.8 g/kg in rats: acute dermal LD_{50} greater than 5.0 g/kg. Chronic oral toxicity, 1,000 parts per million (ppm) fed to rats daily for 16 weeks produced no effects; 1,000 ppm fed to rats daily for 28 weeks produced no effects. Geraniol exhibited severe primary skin irritation in rabbits 100 milligrams (mg)/24 hr.; humans 16 mg/48 hr.; Guinea pigs 100 mg/24 hr. but was non-irritating to miniature pigs at 50 mg in the Draize test. Geraniol is a sensitizer although it exhibits relatively weak and variable responses. Geraniol when tested at doses up to 100 micrograms against *Salmonella typhimurium* TA 97 and TA 102 exhibited no mutagenicity. Geraniol was granted generally recognized as safe (GRAS) status by FEMA in 1965, and is approved as GRAS by the Food and Drug Administration (FDA) when used as a synthetic flavoring and adjuvant for direct addition to food for human consumption.

Waivers are being requested for genotoxicity, reproductive and developmental toxicity, sub-chronic toxicity and acute toxicity to non-target species based on Geraniol's ubiquity in nature, long history of use in the fragrance industry and as a flavoring in alcoholic and non-alcoholic beverages, ice cream, candies and baked good etc., favorable toxicological profile in chronic toxicological studies, and the inconsequential exposure resulting from the label-directed use rates.

D. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. Current dietary exposure to Geraniol occurs from its use as a flavoring agent and adjuvant in food and beverages (0.8 ppm—11 ppm). Considering the low dose of Geraniol required to achieve the desired effect and the levels of Geraniol found in processed food and beverages, it can be concluded that incremental dietary exposure from the proposed use on agricultural and greenhouse crops is insignificant.

ii. *Drinking water*. Geraniol residues in drinking water are expected to be minimal from the proposed uses due to the low application rate, insolubility in water, and the expected rapid biodegradation in the soil.

2. *Non-dietary exposure*. Geraniol is used to the approximate annual amount of 800,000 lbs as a fragrance component in the manufacture of detergents, soaps, creams, lotions, perfumes, and aromatherapy products. Geraniol is also a component of the floral blend used as a lure in Japanese beetle traps. In the seven currently registered Japanese beetle traps, the Geraniol is present at a loading of 2.84—10.70%. The contribution to non-dietary exposure of Geraniol through the use of Biomite is not expected to pose any risk.

E. Cumulative Exposure

It is not expected that Geraniol when used as proposed would result in residues that would remain in human food items at levels which would be of toxicological concern. Because of the low inherent toxicity, low agricultural use rates (compared with flavor and fragrance amounts) no cumulative effects with other substances that might have a common mechanism of toxicity are anticipated.

F. Safety Determination

1. *U.S. population*. The use of products containing Geraniol, which is of low toxicity and used in low concentrations is compatible with the Agency's objectives to register reduced risk pesticides. The application of a volatile Terpenoid alcohol at the label-directed rates is expected to result in negligible residues that are of no toxicological concern, and therefore exposure and risk to the general U.S. population from these proposed agricultural uses is not anticipated.

2. *Infants and children*. Geraniol is ubiquitous in foodstuffs beverages, in soaps, detergents, and creams and hence the proposed agricultural uses pose no threat to infants and children. In fact, as the Geraniol-containing biopesticide product replaces existing miticides with less favorable toxicological profiles risk to infants and children will be reduced.

G. Effects on the Immune and Endocrine Systems

Oral chronic toxicity studies and mutagenicity studies have been cited above. There is no literature available to suggest that immune or endocrine systems will be compromised by the use of Geraniol as an active ingredient in a biochemical pest control agent used at the label-directed rates.

H. Existing Tolerances

There are no known existing tolerances for the use of Geraniol as a pesticide.

I. International Tolerances

The Council of Europe listed Geraniol in 1970 giving it an allowable daily intake (ADI) of 5 milligrams/kilograms bodyweight/day.

2. Natural Plant Products S.A.

0F6145

EPA has received a pesticide petition 0F6145 from Natural Plant Products S.A., Route d'Artix, B.P. 80, 64150 Nogueres, France, proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for biochemical pesticide Citronellol [3,7-dimethyl-6-octen-1-ol] in or on all raw agricultural commodities.

A. Product Name and Proposed Use Practices

Citronellol will be incorporated into the end-use product Biomite as an active ingredient. Biomite is proposed for use as a foliar spray for the control of Tetranychid mites on a variety of agricultural and greenhouse crops. The product is used at the first appearance of spider mite activity on a particular crop, subsequent applications are made as required but not sooner than every 7 days. The application rates of 76 oz in 200 gallons to 20 oz in 50 gallons/per acre equate to 0.085—0.315 oz of Citronellol per acre.

B. Product Identity/Chemistry

Citronellol is a Monoterpene alcohol which is found in over 30 essential oils, and as a semiochemical in the spider mite Tetranychus urticae, the Formicine ant Lasius alienus and the bumble bee Pyrobombus pratorum. Citronellol also occurs in black currants, certain other fruits, wines, beer and black tea. It is a colorless to pale yellow oily liquid with a sweet, rose, leather, musty, floral odor. It is insoluble in water.

C. Mammalian Toxicological Profile

The toxicological profile of Citronellol is, acute oral LD_{50} 3.45 g/kg in rats: acute dermal LD_{50} 2.65 g/kg (rabbit). Citronellol exhibited severe primary skin irritation in rabbits and Guinea pigs (100 mg/24 hr) and moderate to humans (16 mg/48 hr). Citronellol when tested at doses up to 100 micrograms against *Salmonella typhimurium* TA 97 and TA 102 exhibited no mutagenicity. Citronellol has GRAS status at 21 CFR 172.515 when used as a synthetic flavoring and adjuvant for direct addition to foods for humans. Waivers are being requested for genotoxicity, reproductive and developmental toxicity, sub-chronic toxicity and acute toxicity to non-target species based on Citronellol's ubiquity in nature, long history of use in cosmetics, fragrance, detergent, and household cleaners, its natural occurrence in fruit and beverages, its wide use as a synthetic flavoring agent and adjuvant, and the inconsequential exposure resulting from the label-directed use rates.

D. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. Current dietary exposure to Citronellol occurs from its natural occurrence in fruits and beverages, and its use as a flavoring agent and adjuvant in food and beverages. Considering the low dose of Citronellol required to achieve the desired effect and the levels of Citronellol found in natural and processed food and beverages, it can be concluded that incremental dietary exposure from the proposed use on agricultural and greenhouse crops is insignificant.

ii. *Drinking water*. Citronellol residues in drinking water are expected to be minimal from the proposed uses due to the low application rate, insolubility in water, and the expected rapid biodegradation in the soil.

2. *Non-dietary exposure*. Citronellol is widely used as a fragrance component in the manufacture of detergents, soaps, creams, lotions, perfumes, and aromatherapy products. Citronellol is also a component of Citronella oil used in candles, sprays, oils, lotions, and towelettes as a repellent for mosquitoes and other flying insects. Currently there are 31 active pesticide registrations containing Citronella oil. Citronellol is also contained in lemongrass oil, an active ingredient in two currently registered repellents. The contribution to non-dietary exposure of Citronellol through the use of Biomite is not expected to pose any risk.

E. Cumulative Exposure

It is not expected that Citronellol when used as proposed would result in residues that would remain in human food items at levels which would be of toxicological concern. Because of the low inherent toxicity, low agricultural use rates no cumulative effects with other substances that might have a common mechanism of toxicity are anticipated.

F. Safety Determination

1. *U.S. population*. The use of products containing Citronellol, which is of low toxicity and used in low concentrations is compatible with the Agency's objectives to register reduced risk pesticides. The application of a volatile Terpenoid alcohol at the label-directed rates is expected to result in negligible residues that are of no toxicological concern, and therefore, exposure and risk to the general U.S. population from these proposed agricultural uses, is not anticipated.

2. *Infants and children*. Citronellol is ubiquitous in foodstuffs and beverages, and in soaps, detergents and creams and hence the proposed agricultural uses pose no threat to infants and children. In fact, as the Citronellol-containing biopesticide product replaces existing miticides with less favorable toxicological profiles risk to infants and children will be reduced.

G. Effects on the Immune and Endocrine Systems

Mutagenicity studies have been cited above. There is no literature available to suggest that immune or endocrine systems will be compromised by the use of Citronellol as an active ingredient in a biochemical pest control agent used at the label-directed rates.

H. Existing Tolerances

There are no known existing tolerances for the use of Citronellol as a pesticide.

I. International Tolerances

The Council of Europe listed Citronellol in 1970 giving it an allowable daily intake (ADI) of 5 milligrams/kilograms bodyweight/day.

[FR Doc. 00–12961 Filed 5–22–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY.

[FRC–670S–1]

Nutrient Criteria Development; Notice of Nutrient Criteria Technical Guidance Manual: Lakes and Reservoirs, First Edition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of nutrient criteria technical guidance manual: Lakes and reservoirs, first edition.

SUMMARY: The Environmental Protection Agency (EPA) announces the availability of a nutrient criteria technical guidance manual for lakes and reservoirs. This document provides State and Tribal water quality managers and others with guidance on how to develop numeric nutrient criteria for lakes and reservoirs. This document does not contain site-specific numeric nutrient criteria for any lake or reservoir. This guidance was principally developed to assist States and Tribes in their efforts to establish nutrient criteria. States and Tribes are clearly in the best position to consider site-specific conditions in developing nutrient criteria. While this guidance contains EPA's scientific recommendations regarding defensible approaches for developing regional nutrient criteria, this guidance is not regulation; thus it does not impose legally binding requirements on EPA, States, Territories, Tribes, or the public, and might not apply to a particular situation based upon the circumstances. States, Territories, and authorized Tribes retain the discretion to adopt, where appropriate, other scientifically defensible approaches to developing regional or local nutrient criteria that differ from these recommendations.

We have decided to issue technical guidance in a manner similar to that which we are using to issue new and revised criteria (see **Federal Register**, December 10, 1998, 63 FR 68354 and in the EPA document titled, National Recommended Water Quality—Correction EPA 822–Z–99–001, April 1999). Therefore, we invite the public to provide scientific views on this guidance. We will review and consider information submitted by the public on significant scientific issues that might not have otherwise been identified by the Agency during development of this guidance. This guidance has been through external peer review, and a summary of these comments is available on the Nutrient website (http://www.EPA.gov/OST/standards/nutrient.html) After review of the submitted significant scientific information, we will publish a revised document, or publish a notice indicating its decision not to revise the document.

This document has been prepared for publication by the Office of Science and Technology, Office of Water, U.S. Environmental Protection Agency. Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

DATES: All significant scientific information must be submitted to the Agency by July 24, 2000. Any scientific information submitted should be adequately documented and contain enough supporting information to indicate that acceptable and scientifically defensible procedures were used and that the results are likely reliable.

ADDRESSES: This notice contains a summary of the Nutrient Criteria Technical Guidance Manual: Lakes and Reservoirs, First Edition. Copies of the complete document may be obtained from EPA's Water Resource Center by phone at 202–260–7786, or by e-mail to: center.water-resource@epa.gov, or by conventional mail to EPA Water Resource Center, RC–4100, Ariel Rios Building, 1200 Pennsylvania Ave., NW, Washington, DC 20460. The document is also available electronically at *http://www.epa.gov/OST/standards/nutrient.html.*

An original and two copies of written significant scientific information should sent to Robert Cantilli (MC–4304), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Ave., NW , Washington, DC 20460. Written significant scientific information may be submitted electronically in ASCII or Word Perfect 5.1, 5.2, 6.1, or 8.0 formats to OW-General@epa.gov.

FOR FURTHER INFORMATION CONTACT: Dr. George Gibson, USEPA, Health and Ecological Criteria Division (4304), Office of Science and Technology, Ariel Rios Building, 1200 Pennsylvania Ave., NW, Washington, DC 20460; or call (410) 305–2618; fax (410) 305–3093; or e-mail gibson.george@epa.gov.

SUPPLEMENTARY INFORMATION:

Introduction

On March 24, 1998, the President's Clean Water Action Plan was presented in the **Federal Register**. The Clean Water Action Plan specifically stated that EPA will establish recommended water quality criteria for nutrients that reflect the different types of water bodies and different ecoregions of the country and that will assist States and Tribes in adopting numeric water quality standards for nutrients. Consistent with the objectives of the Clean Water Action Plan, the U.S. Environmental Protection Agency presented a National Strategy for the Development of Regional Nutrient Criteria on June 25, 1998, that described the approach the Agency would follow in developing nutrient information and working with States and Tribes to adopt nutrient criteria as part of State/Tribal water quality standards. The major focus of the strategy is the development of waterbody-type technical guidance and recommended ecoregion-specific nutrient criteria by the year 2000. Once EPA develops waterbody-type guidance and recommended nutrient criteria, EPA intends to assist States and Tribes in adopting numeric nutrient criteria into water quality standards by the end of 2003.

Overview of the Problem

Cultural eutrophication (*i.e.,*that associated with humans) of United States surface waters is a long-standing problem; approximately half of the reported impairments in National waters are attributable to excess nutrients. Nitrogen and phosphorus are the primary cause of eutrophication, and algal blooms are often a response to enrichment. Within lakes and reservoirs, chronic symptoms of overenrichment include low dissolved oxygen, fish kills, increased sediment accumulation, and species and abundance shifts of flora and fauna. The problem is National in scope, but varies in nature from one region of the country to another due to geographical variations in geology and soil types. For these reasons, EPA has decided to develop its recommend nutrient criteria on an ecoregional basis for use by States and Tribes.

Summary of Nutrient Criteria Technical Guidance Manual for Lakes and Reservoirs

EPA initiated the National Strategy to Develop Regional Nutrient Criteria to address enrichment problems. The

Nutrient Criteria Technical Guidance Manual: Lakes and Reservoirs, First Edition is the first of a series of waterbody-type specific manuals produced to assist EPA Regions, States, and Tribes in establishing ecoregionally appropriate nutrient criteria. EPA is also developing manuals for rivers and streams, estuarine and coastal waters, and wetlands. EPA expects States and Tribes to use these manuals as the basis for developing State water quality standards for nutrients, to help identify water quality impairments, and to evaluate the relative success in reducing cultural eutrophication. In addition to developing these waterbody-type specific manuals, EPA is developing nutrient criteria guidance under section 304(a) for each of the 14 ecoregions it has identified in the continental United States. EPA expects States and Tribes to use the manuals, other information and local expertise to refine EPA's 304(a) nutrient criteria guidance so that the nutrient water quality criteria eventually adopted by States and Tribes are tailored to more localized conditions. In order to assist States and Tribes in this undertaking, as well as to verify section 304 (a) nutrient criteria guidance, and to provide national consistency wherever possible, EPA has established Regional Technical Assistance Groups (RTAGs). RTAGs are a collection of EPA, State, Tribal representatives who are working together to take EPA's forthcoming section 304(a) nutrient criteria guidance as a starting point to develop more refined ecoregional nutrient criteria. (EPA is also using data and expertise provided by the RTAGs in the development of its section 304(a) nutrient criteria guidance for the 14 ecoregions it has identified.) EPA expects the RTAGs to use the processes set forth in the waterbody-type specific manuals to develop recommended nutrient criteria on an ecoregional basis or a more refined basis (such as subecoregion, State or Tribe-level, more defined class of lakes/reservoirs). Today's manual for lakes and reservoirs also explains how States or Tribes can adopt nutrient water quality standards based on the ecoregional criteria values recommended by the EPA and/or RTAGs.

The key parameters addressed in Nutrient Criteria Technical Guidance Manual: Lakes and Reservoirs, First Edition are total phosphorus, total nitrogen, chlorophyll a, and Secchi depth. As set forth in the manual, the elements that EPA expects States and Tribes to consider in developing a nutrient criterion are:

(1) Historical data and other information to establish perspective;

(2) Current reference site information;

(3) Models used to simulate or validate the empirical relationships established between causal (nutrients) and response (biological indicators) variables; and

(4) Evaluation of downstream consequences before finalizing criteria values. EPA also expects the States or Tribes (or the RTAG when developing criteria guidance) to use their best professional judgement when examining the information and establishing criteria.

EPA expects the criteria development and implementation process (undertaken by EPA, the RTAGs and others) to proceed as follows:

- Data acquisition and review, as well as additional data gathering and processing methods.
- Classification of the lakes and reservoirs by physical characteristics.
- Reference site selection and data reduction to identify reference conditions.
- Development of defensible nutrient criteria, verified by an RTAG and evaluated for potential downstream effects.
- Adoption of nutrient criteria by States and Tribes into their water quality. Standards, ideally taking into account the reference condition data and designated uses.
- Implementation of EPA-approved nutrient criteria by EPA, States, and Tribes to identify areas of water quality impairment due to nutrients and to respond appropriately.

These subjects are described in detail in the Nutrient Criteria Technical Guidance Manual: Lakes and Reservoirs, First Edition.

The manual concludes with chapters describing data models and management options that actively protect or restore lake and reservoir resources. Case histories illustrating nutrient criteria development experiences are appended with the names of individual specialists to contact for more information.

The Nutrient Criteria Technical Guidance Document: Lakes and Reservoirs, First Edition that is being announced in this Notice was developed after consideration of public comment and peer review. A draft Technical Guidance Manual: Lakes and Reservoirs was placed on the EPA Nutrient website (http://www.EPA.gov/OST/standards/nutrient.html) on September 8, 1999, and EPA accepted correspondences and comments until November 16, 1999. In addition, a peer review of the proposed criteria document was conducted by a panel of five external reviewers.

Dated: May 4, 2000.

Geoffrey H. Grubbs,

Director, Office of Science and Technology.

[FR Doc. 00–12955 Filed 5–22–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.)*, the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Type of Review: Renewal of a currently approved collection.

Title: Notices Required of Government Securities Dealers or Brokers (Insured State Nonmember Banks).

OMB Number: 3064–0093.

Form Number: G–FIN, G–FINW, G–FIN–4, G–FIN–5

Annual Burden:

Estimated annual number of respondents: 110.

Estimated time per response: 1 hour.

Average annual burden hours: 110 hours.

Expiration Date of OMB Clearance: July 31, 2000.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

FDIC Contact: Tamara R. Manly, (202) 898–7453, Office of the Executive Secretary, Room F–4058, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before June 22, 2000 to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The Government Securities Act of 1986 requires all financial institutions acting as government securities brokers and dealers to notify their federal regulatory agencies of their broker-dealer activities, unless exempted from the notice requirement by Treasury department regulation.

Dated: May 18, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 00–12940 Filed 5–22–00; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*, the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Type of Review: Renewal of a currently approved collection.

Title: Notification of Changes in Insured Status.

OMB Number: 3064–0124.

Annual Burden:

Estimated annual number of respondents: 943.

Estimated time per response; ¼ hour.

Average annual burden hours: 236 hours.

Expiration Date of OMB Clearance: June 30, 2000.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

FDIC Contact: Tamara R. Manly, (202) 898–7453, Office of the Executive Secretary, Room F–4058, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before June 22, 2000 to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: 12 U.S.C. 1818(q) requires an insured depository institution to provide the FDIC with a certification when it partially or completely assumes deposit liabilities from another insured depository institution.

Dated: May 18, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 00–12941 Filed 5–22–00; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Type of Review: Renewal of a currently approved collection.

Title: Securities of Insured Nonmember Banks.

OMB Number: 3064–0030.

Form Number: F–7, F–8, F–8A.

Annual Burden:

Estimated annual number of respondents: 2,952.

Estimated time per response: 0.635 hours.

Average annual burden hours: 1,875 hours.

Expiration Date of OMB Clearance: July 31, 2000.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

FDIC Contact: Tamara R. Manly, (202) 898–7453, Office of the Executive Secretary, Room F–4058, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before June 22, 2000 to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The information is collected from FDIC-supervised banks and from officers, directors and shareholders subject to the securities registration requirements of the Securities Exchange Act of 1934, as amended. The information is considered necessary for actual and potential investors making investment decisions concerning securities issued by reporting banks.

Dated: May 18, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 00–12942 Filed 5–22–00; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained

from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 16, 2000.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Dakota Western Bankshares, Inc.* Bowman, North Dakota; to acquire 100 percent of the voting shares of West River Holding Company, Inc., Hettinger, North Dakota, and thereby indirectly acquire voting shares of West River State Bank, Hettinger, North Dakota.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Central Financial Corporation, Hutchinson, Kansas; to acquire 18.94 percent of the voting shares of Premier Bancshares, Inc., Jefferson City, Missouri, and thereby indirectly acquire Premier Bank, Jefferson City, Missouri.

Board of Governors of the Federal Reserve System, May 17, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–12846 Filed 5–22–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 16, 2000.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Capitol Bancorp, Ltd.*, Lansing, Michigan, and Sun Community Bancorp Limited, Phoenix, Arizona, to acquire 51 percent of the voting shares of Arrowhead Community Bank, Glendale, Arizona (in organization).

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. *Downing Partnership, L.P.*, Ellis, Kansas; to become a bank holding company by acquiring 48.04 percent of the voting shares of Ellis State Bank, Ellis, Kansas.

Board of Governors of the Federal Reserve System, May 18, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–12951 Filed 5–22–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 6, 2000.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Concord EFS, Inc., Memphis, Tennessee; to acquire Cash Station, Inc., Chicago, Illinois (''CSI''), and indirectly engage in data processing activities, pursuant to § 225.28(b)(14) of Regulation Y. CSI operates the Cash Station Network, an on-line debit network providing cardholder access to ATM's and POS terminals. In connection with its acquisition of CSI, Notificant also proposes to indirectly acquire CSI's 7.4 percent ownership interest in Primary Payment Systems, Inc., Scottsdale, Arizona. Primary Payment Systems, Inc. provides advance notification to participating financial institutions of potential check returns. The activities of Primary Payment Systems, Inc. have been approved by Board Order.

Board of Governors of the Federal Reserve System, May 17, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–12845 Filed 5–22–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Notice of Meeting of Consumer Advisory Council

The Consumer Advisory Council will meet on Thursday, June 22, 2000. The meeting, which will be open to public observation, will take place at the Federal Reserve Board's offices in Washington, DC., in Dining Room E of the Martin Building (Terrace level). The meeting will begin at 8:45 a.m. and is expected to conclude at 1 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other

matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

Gramm-Leach-Bliley Act CRA Sunshine Regulation
Discussion of the proposal regarding disclosure of CRA agreements between financial institutions and community groups.
Credit Card Disclosures in Solicitations
Discussion of the adequacy of existing disclosures and possible alternatives.
Predatory Lending
Discussion of issues regarding abusive lending practices.
Committee Reports
Council committees will report on their work.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit views to the Council regarding any of the above topics may do so by sending written statements to Ann Bistay, Secretary of the Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551. Information about this meeting may be obtained from Ms. Bistay, 202–452–6470. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins, 202–452–3544.

Board of Governors of the Federal Reserve System, May 17, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–12847 Filed 5–22–00; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Technical Support Division

Notice of Availability of Draft Environmental Impact Statement (DEIS); Proposed U.S. Courthouse, Springfield, MA

Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, as implemented by the Council on Environmental Quality (40 CFR parts 1500–1508), the General Services Administration (GSA) has filed with the U.S. Environmental Protection Agency and made available to other government and interested private parties, a Draft Environmental Impact Statement (DEIS) for the construction of a U.S. Courthouse in the City of Springfield, Hampden County, Massachusetts.

The DEIS is on file at the Springfield City Hall, Clerk's Office, 36 Court Street; Springfield Public Library, Reference Desk, 220 State Street; and General Services Administration, 10 Causeway Street, Ninth Floor, Boston, Massachusetts.

Additional information may be obtained from the General Services Administration, Region 1, Attention: Frank Saviano, Project Manager, 10 Causeway Street, Room 975, Boston, MA 02222. Telephone 617–565–5494; FAX 617–565–5967.

Written comments regarding the DEIS may be submitted until July 6, 2000 and should be addressed to the General Services Administration in care of the above noted individual.

A public hearing is scheduled for June 13, 2000 in the Second Floor Meeting Room, Springfield City Hall, 36 Court Street, Springfield, Massachusetts. The hearing will begin at 4 p.m. and remain open until 7 p.m. or until all comments have been received.

Issued in Boston, Massachusetts on May 15, 2000.

George Klueber,

Portfolio Manager.

[FR Doc. 00–12924 Filed 5–22–00; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for 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. Survey of Grant Recipients—NEW—The Office of Grants and Acquisition Management.

OGAM, in compliance with Executive Order 12862, is requesting Office of Management and Budget approval for surveys of HHS grantees to gather information on the performance of the grants management operations in the Department's Operating Divisions (OPDIVs) and their grant awarding components. These surveys will provide OGAM, the OPDIVs, and their awarding components with a necessary tool for the evaluation of the awarding components performance.

Respondents. State or local governments, businesses or other for-profit organizations, non-profit institutions, small businesses.

Annual Number of Respondents: 2,667.

Frequency of Response: Once every three years.

Average Burden per Response: 15 minutes.

Annual Burden: 667 hours.

OMB Desk Officer: Allison 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 15, 2000.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 00–12946 Filed 5–22–00; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of a Meeting of the National Bioethics Advisory Commission (NBAC)

SUMMARY: Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of a meeting of the National Bioethics Advisory Commission. The Commission will discuss its ongoing projects: (a) Ethical issues in international research and (b) ethical and policy issues in the oversight of human subjects research in the United States. Some Commission members may participate by telephone conference. The meeting is open to the public and opportunities for statements by the public will be provided on June 5 from 1–1:30 p.m.

Dates/Times	Location
June 5, 2000, 8 a.m.–6:30 p.m.	Hyatt at Fisherman's Wharf, 555 North Point Street, San Francisco, CA.

Dates/Times	Location
June 6, 2000, 8 a.m.–5:30 p.m.	Same Location as Above.

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) on October 3, 1999 by Executive Order 12975 as amended. The mission of the NBAC is to advise and make recommendations to the National Science and Technology Council, its Chair, the President, and other entities on bioethical issues arising from the research on human biology and behavior, and from the applications of that research.

Public Participation

The meeting is open to the public with attendance limited by the availability of space on a first come, first serve basis. Members of the public who wish to present oral statements should contact Ms. Jody Crank by telephone, fax machine, or mail as shown below as soon as possible, at least 4 days before the meeting. The Chair will reserve time for presentations by persons requesting to speak and asks that oral statements be limited to five minutes. The order of persons wanting to make a statement will be assigned in the order in which requests are received. Individuals unable to make oral presentations can mail or fax their written comments to the NBAC staff office at least five business days prior to the meeting for distribution to the Commission and inclusion in the public record. The Commission also accepts general comments at its website at bioethics.gov. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact NBAC staff at the address or telephone number listed below as soon as possible.

FOR FURTHER INFORMATION CONTACT: Ms. Jody Crank, National Bioethics Advisory Commission, 6100 Executive Boulevard, Suite 5B01, Rockville, Maryland 20892–7508, telephone (301) 402–4242, fax number (301) 480–6900.

Eric M. Meslin,

Executive Director, National Bioethics Advisory Commission.

[FR Doc. 00–12949 Filed 5–22–00; 8:45 am]

BILLING CODE 4167–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00078]

National Conference of State Legislatures; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2000 funds for a grant program for the National Conference of State Legislatures to develop educational initiatives and provide an information forum for State policymakers on all areas of public health.

CDC is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2010'' a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the focus areas of: Arthritis, Osteoporosis and Chronic Back Conditions; Cancer; Diabetes; Disability and Secondary Conditions; Educational and Community-Based Programs; Environmental Health; Family Planning; Food Safety; Health Communication; Heart Disease and Stroke; HIV; Immunization and Infectious Diseases; Injury and Violence Prevention; Maternal, Infant and Child Health; Nutrition and Overweight; Occupational Safety and Health; Oral Health; Physical Activity and Fitness; Public Health Infrastructure; Respiratory Diseases; Sexually Transmitted Diseases; Substance Abuse; Tobacco Use; and Vision and Hearing. For the conference copy of ''Healthy People 2010,'' visit the internet site: <http://www.health.gov/healthypeople>

The broad purposes of the grant are to develop educational initiatives and provide an information forum on public health for policymakers, and to provide accurate, comprehensive, and timely information on public health issues to State policymakers for the development of effective public health policy at the State level. Priority areas in the first budget year are prevention, early detection, and control of disease and injury, the promotion of healthy behaviors, and strengthening State and local public health agencies.

B. Eligible Applicants

Assistance will be provided only to the National Conference of State Legislatures (NCSL). No other applications are solicited.

NCSL is the only bipartisan organization that represents legislatures and their staff of the 50 States. NCSL is a unique source for policy research, publications, consulting services, and meetings. NCSL tailors these services to State legislators, committees, and their staff. It is the only national conduit for State legislators to communicate with each other to share ideas. NCSL provides a unique network for sharing experiences and information with legislators and staffs throughout the nation.

The NCSL is the source for information on hundreds of policy issues. It connects legislators with policy innovators and national experts. It also uses a variety of technologies and resources to assist legislators and their staff that include:

1. Research and analysis for States on emerging and priority issues and innovative State enterprises.
2. Information Clearinghouse to track, evaluate, and disseminate information on State programs and State best practices.
3. Publications with formats designed specifically for the State legislators. NCSL produces regular reports, issue briefs, legislative briefs, and articles on issues critical to States.
4. Conducts National meetings and intensive workshops planned specifically for the legislators and their staff to support State-to-State communication on technical issues and assistance in solving State focused problems. As the nation's only organization that represents and links legislators and their staff from all 50 States, NCSL is in a unique position to disseminate information on public health issues to State legislatures and convene information-sharing meetings among State legislative representatives and staff.

Note: Public Law 104–65 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.

C. Availability of Funds

Approximately $1,314,300 will be available in FY 2000 to fund public health activities under this grant. Award amounts for each division activity are provided in Attachment I. It is expected the award will begin on or about September 2, 2000, and will be for a 12-month budget period within a project period of up to 3 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

The recipient will be responsible for carrying out activities to support the following:

1. Develop, maintain, and publicize an information clearinghouse for use by State policymakers on issues that relate to public health, to include the prevention, early detection, and control of disease and injury; and the preparedness, capacity, and performance of State and local public health agencies, including the public health workforce.

2. Develop, print, and distribute articles, reports, and other information relating to public health for use by State policymakers.

3. Convene regional and national meetings of State government employees, State legislators and their staff, and others as appropriate for discussion of public health issues to include appropriate topics, audiences and workshops to exchange information.

4. Track relevant State legislation and legislative activities related to public health. Provide quarterly updates to State policymakers on legislation and legislative actions on public health issues such as adolescent health; arthritis, osteoporosis and chronic back conditions; cancer; diabetes; obesity; disability and secondary conditions; educational and community-based programs; environmental health issues, including childhood lead poisoning, safe drinking water, and pediatric asthma; heart disease and stroke; HIV infection; immunization and infectious diseases; maternal, infant and child health; nutrition; oral health; physical activity and fitness; sexually transmitted diseases; injury; tobacco use; State and local public health legal authorities; and other topics. This activity shall not be intended to support or defeat particular State legislation.

5. Coordinate activities with State and local health department contacts, including public health experts, to ensure that NCSL members are aware of public health programs and activities in their State or region.

6. Expand above activities to include other public health areas, when agreed upon by CDC and NCSL.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. The application will be evaluated on the criteria listed, so it is important to follow them in laying out the program plan. The narrative should be no more than 30 double-spaced pages, printed on one side, with one-inch margins, and unreduced font.

F. Submission and Deadline

Application

Submit the original and two copies of Application Form 5161–1. Forms are in the application kit.

Submit the application on or before July 14, 2000, to the Grants Management Specialist identified in the ''Where to Obtain Information section'' of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

The application will be evaluated according to the following criteria by an independent review group appointed by CDC:

1. Background and Need (5 Points)

The extent to which the applicant identifies specific needs related to the purpose of the program.

2. Objectives (20 Points)

The degree to which short-term and long-term objectives are specific, time-phased, measurable, realistic, and related to identified needs.

3. Methods (35 Points)

The extent to which the plan for achieving the proposed activities appears realistic and feasible, and relates to the stated purposes of this grant.

4. Administration and Management (15 Points)

The degree to which the proposed staff have the background, qualifications, and experience; and the organizational structure demonstrate an ability to conduct proposed activities.

5. Evaluation Plan (25 Points)

The extent to which the evaluation plan appears capable of monitoring progress toward meeting project objectives.

6. Budget and Justification (Not Scored)

The extent to which the budget is reasonable and consistent with the purposes and activities of the program.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Quarterly progress reports are required no later than 30 days after the quarterly reporting period.

2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial status and performance reports, no more than 90 days after the end of the project period.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment II in the application kit.

AR–7	Executive Order 12372 Review.
AR–9	Paperwork Reduction Act Requirements.
AR–10	Smoke-Free Workplace Requirements.
AR–11	Healthy People 2010.
AR–12	Lobbying Restrictions.
AR–15	Proof of Nonprofit Status.

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a), 317(k)(2), and 1706 (42 U.S.C. 241(a), 247b(k)(2)) of the Public Health Service Act, 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.

To obtain additional information contact:

Cynthia R. Collins, Grants Management Specialist Grants, Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Rd., Room 3000, Atlanta, GA 30341–5539, telephone: (770) 488–2757, email: coc9@cdc.gov.

For program technical assistance, contact:

Lisa Daily, Associate Director for Planning, Evaluation and Legislation, National Center for Chronic Disease, Prevention and Health Promotion,

Program Announcement 00078, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE MS K–40, Atlanta, GA 30341, telephone (770) 488–5403, e-mail: lid1@cdc.gov.

Dated: May 17, 2000.

John L. Williams,

Director, Procurement and Grants Office, Center for Disease Control, and Prevention (CDC).

[FR Doc. 00–12882 Filed 5–22–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–0356]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Survey of Incidence of Gastroenterological Parasitic Infections in the United States as a Result of Consumption of Raw Fish

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by June 22, 2000.

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: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Survey of Incidence of Gastroenterological Parasitic Infections in the United States as a Result of Consumption of Raw Fish

Under section 903(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(b)(2)), FDA has the responsibility to conduct research relating to foods and to conduct educational and public information programs relating to the safety of the nation's food supply. The ''Survey of Incidence of Gastroenterological Parasitic Infections in the United States as a Result of Consumption of Raw Fish'' will provide information on the actual frequency of occurrence of fish-borne helminth illnesses. Detailed information will be obtained from the target population of clinical gastroenterologists who are likely to have encountered and treated food-borne parasitic infections. Respondents will also be asked to provide demographic information about the most recent cases. The information will be used to better evaluate the need for control of helminth parasites in fish intended for raw consumption and to evaluate effective means for control where such controls are found necessary. A national representative sample of 1,000 clinical gastroenterologists will be selected by a random procedure and interviewed by questionnaire.

In the **Federal Register** of February 22, 2000 (65 FR 8713), the agency requested comments on the proposed collections of information. One comment was received. The comment commended the concept of conducting the survey, but requested that the survey gather information sufficient to determine whether implicated fish were from commercial or recreational sources.

The comment's point is that because the purpose of the survey is to help determine whether infection from fish-borne helminth parasites is a hazard that is responsibly likely to occur in the United States in commercial species of fish, data on parasite infections from noncommercial species could skew the outcome. While the comment's point is valid in theory, it is highly unlikely that recreational species are a significant source of parasite infections. It is more likely that commercial species intended for raw consumption, as in sushi and sashimi, provide an appreciable risk of parasite infection. Consequently, the agency does not regard differentiation between commercial and recreational sources to be critical to the success of the survey. As a practical matter, moreover, information on whether an infection was from a commercially or recreationally obtained fish is probably not available through the kind of survey that is being conducted. Consequently, FDA does not contemplate any change in the survey.

Any findings of significant levels of infection will guide FDA in evaluating its current policy that fish intended for raw consumption should have been previously frozen to eliminate the hazard from live parasites. This recommendation is adhered to by many members of the seafood industry. To the extent that parasite infection from raw fish is demonstrated through this survey to be a hazard reasonably likely to occur, the agency would focus its attention to such actions as increased consumer education, which would apply to raw fish from any source, and to ensuring the implementation of hazard analysis critical control points controls for fish sold for raw consumption.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
500	1	500	.50	250

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

This is a one-time survey. The burden estimate is based on FDA's experience with conducting similar surveys.

Dated: May 15, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–12854 Filed 5–22–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Psychopharmacological Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Psychopharmacological Drugs Advisory Committee

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 19, 2000, 8 a.m. to 5 p.m.

Location: Holiday Inn, Versailles Ballrooms I, II, and III, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Sandra L. Titus or LaNise S. Giles, Center for Drug Evaluation and Research (HFD–21), 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, Rm. 1093) Rockville, MD 20857, 301–827–7001, or e-mail Tituss@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area) code 12544. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will consider the safety and efficacy of new drug application (NDA) 20–825, Zeldox™ (ziprasidone hydrochloride capsules, Pfizer, Inc.), proposed for the management of psychotic disorders.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 17, 2000. Oral presentations from the public will be scheduled on July 19, 2000, between approximately 1 p.m. to 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 17, 2000, 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.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 11, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–12855 Filed 5–22–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225–00–2000]

Memorandum of Understanding Between the Food and Drug Administration, U.S. Department of Health and Human Services, and the Food Safety and Inspection Service, U.S. Department of Agriculture, Regarding the Listing or Approval of Food Ingredients and Sources of Radiation Used in the Production of Meat and Poultry Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between FDA and the Food Safety and Inspection Service, U.S. Department of Agriculture (FSIS). The purpose of the agreement is to establish the working relationship to be followed by FDA and FSIS in responding to requests for the sanctioning of the use of food ingredients and sources of radiation subject to regulation by FDA and intended for use in the production of meat and meat food products.

DATES: The agreement became effective January 31, 2000.

FOR FURTHER INFORMATION CONTACT: Arletta M. Beloian, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3082.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and MOU's between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this MOU.

Dated: May 16, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

The MOU is set forth in its entirety as follows:

BILLING CODE 4160–01–F

FDA # 225-00-2000

MEMORANDUM OF UNDERSTANDING

Between The

FOOD SAFETY AND INSPECTION SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE

And The

FOOD AND DRUG ADMINISTRATION
UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES

Regarding the Listing or Approval of Food Ingredients and Sources of Radiation Used in the Production of Meat and Poultry Products

I. PURPOSE

This agreement establishes the working relationship to be followed by FSIS and FDA in responding to requests for the sanctioning of the use of food ingredients and sources of radiation subject to regulation by the FDA and intended for use in the production of meat and meat food products (hereinafter known collectively as meat products) and poultry products regulated by FSIS.

II. BACKGROUND

The Federal Food, Drug, and Cosmetic Act (FFDCA) provides FDA with the authority to determine the safety, wholesomeness, and accurate labeling of food. The Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) provide FSIS with the authority to regulate establishments that process meat and poultry, and determine the safety, wholesomeness, and accurate labeling of such meat and poultry products.

Section 409 of the FFDCA (21 U.S.C. 348) requires premarket approval of food additives that are not food contact substances. Under section 409, any person may submit to FDA a food additive petition that includes data and information that the petitioner believes establish that use of the substance is safe under its intended conditions of use, (i.e., that there is reasonable certainty that the substance is not harmful under the intended conditions of use (21 CFR 170.3(i)). If, based on the data and information in the petition, FDA finds that the food additive is safe under the conditions of its intended use, FDA promulgates a regulation specifying the conditions under which the additive may be safely used.

Likewise, section 721 of the FFDCA (21 U.S.C. 379e) requires premarket review and listing of color additives. Under section 721, any person may submit to FDA a color additive petition that includes data and information that the petitioner believes establish that the intended use of the substance is safe, and that the color additive is suitable for its intended use. If, based on the data and information in the petition, FDA finds that the color additive is suitable and safe under the conditions of its intended use, FDA promulgates a regulation specifying the conditions under which the color additive may be safely used.

In enacting Section 409, Congress recognized that many substances intentionally added to foods would not require a formal premarket review by FDA to ensure their safety, either because their safety had been established by a long history of safe use in food or by virtue of the nature of the substance, its customary or projected conditions of use, and the information generally available to scientists about the substance. Congress thus adopted a two-step definition of "food additive" (21 U.S.C. 321(s)). The first step broadly includes any substance, the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of food. The second step, however, excludes from the definition of food additive substances that are generally recognized, among experts qualified by scientific training and experience to evaluate their safety, as having been adequately shown to be safe under the conditions of their intended use. It is on the basis of this generally recognized as safe (GRAS) provision in the food additive definition that many food ingredients are marketed without formal FDA review and approval. However, there is no corresponding GRAS provision for color additives.

The FMIA and the PPIA grant FSIS the authority to regulate the use of GRAS substances, FDA-listed food and color additives, and sources of radiation to ensure that their use does not adulterate meat or poultry products. Under the tenets of the FMIA and PPIA, and their implementing regulations, FSIS determines the suitability (i.e., status) of the use of food ingredients and sources of radiation used in the production of meat and poultry products, in accordance with various FSIS regulations and policies.

III. SCOPE

This is a collaborative FSIS-FDA agreement regarding food ingredients and sources of radiation intended for use in the production of meat and poultry products. This agreement between FSIS and FDA covers the following circumstances: (1) when a party requests Federal approval of a food ingredient or source of radiation that specifies use in or on a meat or poultry product; (2) when a party requests Federal approval of a food ingredient or source of radiation that is intended for use in or on food generally, but does not specify whether it is intended for use in or on a meat and poultry product; (3) when a party requests a suitability determination regarding the use of a food ingredient or source of radiation in or on a meat or poultry product; and (4) when a party inquires about the use of a food ingredient or source of radiation used in or on a meat or poultry product.

IV. COLLABORATIVE FSIS-FDA AGREEMENT REGARDING FOOD INGREDIENTS AND SOURCES OF RADIATION INTENDED FOR USE IN THE PRODUCTION OF MEAT AND POULTRY PRODUCTS

FSIS and FDA agree to cooperate and collaborate on the review of submissions each agency receives regarding the use of food ingredients and sources of radiation used in the production of meat or poultry products. The agencies further agree that the details of that cooperative relationship are to be elaborated on in a set of mutually agreeable standard operating procedures. The standard operating procedures will provide consistency in the processing of the relevant submissions regardless of which agency is the receiving agency or which agency the consulting agency. When appropriate, the consulting agency to this agreement will provide its evaluation on relevant parts of submissions to the other agency in writing.

V. IMPLEMENTATION OF THE AGREEMENT

FSIS and FDA jointly agree:

1. That the officials of the two agencies responsible for implementing the agreement are:

   At FSIS: Director, Labeling and Additives Policy Division (or other FSIS designee).

   At FDA: Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition

2. That written notice will be provided to the Director of the Center for Food Safety and Applied Nutrition, FDA, and to the Administrator of the Food Safety and Inspection Service, USDA, of any rulemaking initiative not in keeping with the

provisions of this MOU or about which there is an interagency disagreement, prior to public announcement of the rulemaking.

3. That the Administrator of FSIS and Director of CFSAN shall resolve any problems and make decisions by consensus in areas of disagreement.

VI. OTHER AGREEMENTS

The provisions of this MOU are not intended to add to or detract from any of the authorities provided to either FDA or FSIS by the FFDCA, FMIA, or PPIA, or the regulations promulgated by each agency under such authorities. Each agency reserves the authority to review, independently of the other, matters of concern to their respective authorities.

VII. DURATION OF MOU

This agreement becomes effective upon acceptance by both agencies and will continue indefinitely. It may be modified by mutual written consent or terminated by either agency with a 30-day written notice to the other agency.

Signed:

By: _____

Title: Administrator, FSIS

Date: Jan. 31, 2000

Signed:

By: _____

Title: Senior Associate Commissioner for Policy, Planning and Legislation, FDA

Date: January 18, 2000

[FR Doc. 00–12853 Filed 5–22–00; 8:45 am]
BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request: National Institute of Diabetes and Digestive and Kidney Diseases Information Clearinghouse Customer Satisfaction Survey

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects; the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management (OMB) for review and approval.

Title: NIDDK Information Clearinghouses Customer Satisfaction Survey.

NIDDK will conduct a survey to evaluate the efficiency and effectiveness of services provided NIDDK's three information clearinghouses: National Diabetes Information Clearinghouse, National Digestive Diseases Information Clearinghouse, National Kidney and Urologic Diseases Information Clearinghouse. The survey responds to Executive Order 12862, ''Setting Customer Service Standards,'' which requires agencies and departments to identify and survey their ''customers to determine the kind and quality of service they want and their level of satisfaction with existing service.''

Frequency of Response: On occasion.

Affected Public: Individuals or households; clinics or doctor's offices.

Type of Respondents: Physicians, nurses, patients, family.

Type of respondents	Number of respondents	Frequency of response	Estimated average response time	Estimated annual burden hours
Patients/Family	3,600	1.00	0.167	600
Phys. Asst	7,200	1.00	0.167	1,200
Physicians	1,200	1.00	0.167	200
Totals	12,000			2,000

The annual reporting burden is as follows:

Estimated Number of Respondents: 12,000.

Estimated Number of Responses per Respondent: 1.

Estimated Average Burden Hours per Response: 01671.

Estimated Total Annual Burden Hours Requested: 2,000.

The annualized cost to respondents is estimated at $39,000. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestionns from the public and affected agencies are invited on 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 appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Please address all comments concerning the proposed collection to Kathy Kranzfelder, Project Officer, NIDDK Information Clearinghouses, NIH, Building 31, Room 9A04, MSC2560, Bethesda, MD 20852. You may also submit comment and data by electronic mail (e-mail) at: <*kranzfeldk@hq.niddk.nih.gov*>.

Comments Due Date

Comments regarding this information are best assured of having their full effect if received within 60 days following the date of this notice.

FOR FURTHER INFORMATION: To request more information on the proposed project, contact Kathy Kranzfelder at 301–496–3583 or via e-mail at: <*Kranzfeldk@hq.niddk,nih.gov*>.

Dated: May 8, 2000.

Earl L. Laurence,

Department Director, NIDDK.

[FR Doc. 00–12907 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Meeting: DHHS Chronic Fatigue Syndrome Coordinating Committee

In accordance with section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C., Appendix 2), notice is hereby given of a meeting of the DHHS Chronic Fatigue Syndrome Coordinating Committee.

Name: Department of Health and Human Services (DHHS) Chronic Fatigue Syndrome Coordinating Committee (CFSCC).

Time and Date: Wednesday, July 12, 2000, from 9 a.m. to 3:30 p.m.

Place: Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people. 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.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card will need to provide a photo ID and must know the subject and room number of the meeting in order to be admitted into the building. Visitors must use the Independence Avenue entrance.

Purpose: The Committee is charged with providing advice to the Secretary, the Assistant Secretary for Health, and the Commissioner, Social Security Administration (SSA), to assure interagency coordination and communication regarding chronic fatigue syndrome (CFS) research and other related issues; facilitating increased DHHS and agency awareness of CFS research and educational needs; developing complementary research programs that minimize overlap; identifying opportunities for collaborative and/or coordinated efforts in research and educational; and developing informed responses to constituency groups regarding DHHS and SSA efforts and progress.

Matters To Be Discussed: The meeting will have, as its sole focus, a discussion of the forthcoming General Accounting Office report on CFS research activities at NIH and CDC and the role of the DHHS CFSCC. Because this is a briefing session, there will be no public testimony.

Contact Person for More Information: Janice C. Ramsden, Executive Secretary, CFSCC, Office of the Acting Director, NIH, Building 1, Room 235, 1 Center Drive, MSC 0159, Bethesda, Maryland 20892–0159, e-mail *jr52h@nih.gov* or telephone 301–496–0959.

Dated: May 16, 2000.

LaVerne Stringfield,

Director, Office of Advisory Committee Policy.

[FR Doc. 00–12898 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group Subcommittee G—Education.

Date: June 27–29, 2000.

Time: 1 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW, Washington, DC 20007.

Contact Person: Harvey P. Stein, Phd, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8036, Bethesda, MD 20892, 301/496–7481.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.3398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 16, 2000.

LaVerene Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12892 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the President's Cancer Panel.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: President's Cancer Panel.

Date: June 15–16, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: Improving Cancer Care for All: Real People—Real Problems.

Place: Doubletree Hotel, Omaha, NE.

Contact Person: Maureen O. Wilson, Phd, Executive Secretary, National Cancer Institute, National Institutes of Health, 31 Center Drive, Building 31, Room 4A48, Bethesda, MD 20892, 301/496–1148.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 16, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12893 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Spores for Breast and Prostate Cancer.

Date: June 13–15, 2000.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Park Terrace on Embassy Row, 1515 Rhode Island Avenue, NW, Washington, DC 20005.

Contact Person: Brian E. Wojcik, Phd, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8019, Bethesda, MD 20892, 301–402–2785.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 16, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12894 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Determining the Carcinogenic Significance of Heterocyclic Amines.

Date: June 12–14, 2000.

Time: 7 pm to 11 am.

Agenda: To review and evaluate grant applications.

Place: Wyndham Garden Hotel—Pleasanton, 5990 Stoneridge Mall Road, Pleasanton, CA 94588.

Contact Person: Michael B Small, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8040, Bethesda, MD 20892, 301/402–0996.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction, 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 16, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12895 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of 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 Center for Research Resources Special Emphasis Panel, Comparative Medicine.

Date: June 8, 2000.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Camille M. King, PhD., Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, One Rockledge Centre, MSC 7965, 6705 Rockledge Drive, Suite 6018, Bethesda, MD 20892–7965, 301–435–0815.

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 Center for Research Resources Special Emphasis Panel, Comparative Medicine.

Date: June 13, 2000.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Camille M. King, PhD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, One Rockledge Centre, MSC 7965, 6705 Rockledge Drive, Suite 6018, Bethesda, MD 20892–7965, 301–435–0815.

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 Center for Research Resources Special Emphasis Panel, General Clinical Research Centers.

Date: June 13, 2000.

Time: 7 p.m. to 11 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: John L. Meyer, PhD, Deputy Director, Office of Review, National Center for Research Resources, National Institutes of Health, 6705 Rockledge Drive, MSC 7965, One Rockledge Centre, Suite 6018, Bethesda, MD 20892–7965, 301–435–0806.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: May 16, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12902 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Heart, Lung, and Blood Institute Special emphasis Panel, June 7, 2000, 7 PM to June 8, 2000, 3 PM, Columbia Sheraton, 10207 Wincopin Circle, Columbia, MD, 21044 which was published in the **Federal Register** on April 2, 2000, 65 FR 24491–24492.

The name of the meeting will be changed to Hematopoietic Stem Cell Biology RFA. The meeting is closed to the public.

Dated: May 12, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12905 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Cancellation of Meeting

Notice is hereby given of the cancellation of the National Heart, Lung, and Blood Institute Special Emphasis Panel, May 17, 2000, 2:30 p.m. to May 17, 2000, 3:30 p.m., NIH, Rockledge II, Bethesda, MD, 20892 which was published in the **Federal Register** on April 26, 2000, 65 FR 24491–24492.

The meeting is cancelled due to the fact that a review meeting is no longer required.

Dated: May 12, 2000.

LeVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12906 Filed 5–22–00; 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, Medication Development Research Subcommittee.

Date: June 28, 2000.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Arlington Hyatt, 1325 Wilson Boulevard, Arlington, VA 22209.

Contact Person: Khursheed Asghar, PhD, 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 Special Emphasis Panel, Minority Institutions' Drug Abuse Research Development Program.

Date: June 28, 2000.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Arlington, 1325 Wilson Boulevard, Arlington, VA 22209.

Contact Person: Khursheed Asghar, PhD, 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 29089–2954, (301) 443–2620.

Name of Committee: National Institute on Drug Abuse Initial Review Group, Health Services Research Subcommittee.

Date: June 29–30, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Washington, 515 15th Street NW, Washington, DC 20004.

Contact Person: Marina L. Volkov, PhD, 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.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Medication Development Research.

Date: June 29, 2000.

Time: 9 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Arlington, 1325 Wilson Blvd., Arlington, VA 22209.

Contact Person: Mark Swieter, PhD, 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 Initial Review Group, Treatment Research Subcommittee.

Date: June 29–30, 2000.

Time: 11 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Washington, 515 15th Street, NW, Washington, DC 20004.

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.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Centers Review Committee.

Date: June 29, 2000.

Time: 6 p.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Rita Liu, PhD, 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, Aids Research Core Grants.

Date: June 30, 2000.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Rita Liu, PhD, 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, Health Services Research.

Date: June 30, 2000.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Washington, 515 15th Street NW, Washington, DC 20004.

Contact Person Susan L. Coyle, PhD, Chief, Clinical, Epidemiological and Applied Sciences Review Branch, 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, Treatment Research.

Date: June 30, 2000.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Washington, 515 15th Street, NW, Washington, DC 20004.

Contact Person: Marina L. Volkov, PhD, 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.

Name of Committee: National Institute on Drug Abuse Initial Review Group, Training and Career Development Subcommittee.

Date: July 6–7, 2000.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Mark Swieter, PhD, 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, Program Projects.

Date: July 10, 2000.

Time: 10 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Khursheed Asghar, PhD, 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 29089–2954, (301) 443–2620.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, The Next Generation of Drug Abuse Prevention Research.

Date: July 13, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: William C. Grace, PhD, 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, Microarray-Based Research On Drug Abuse.

Date: July 17–18, 2000.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Rita Liu, PhD, 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, Basic Behavioral, Cognitive, and Neurological Research: Applications to HIV/AIDS and Drug Abuse.

Date: July 20, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Barcelo Hotel, 2121 P Street NW. Washington, DC 20037.

Contact Person: Marina L. Volkov, PhD, 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 20892–9597, (301) 435–1433.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, HIV Therapy for Drug Users: Access, Adherence, Effectiveness.

Date: July 21, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Barcelo Hotel 2121 P Street NW Washington, DC 20037.

Contact Person: Marina L. Volkov. PhD, Heath 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 12, 2000.

LaVerne Y. Stringfiled,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12903 Filed 5–22–00; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 00–73, DE Contract N01DE72623.

Date: May 19, 2000.

Time: 10 a.m. to 11:30 a.m.

Agenda: To review and evaluate contract proposals.

Place: Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anna Sandberg, PhD, Scientific Review Administrator, National Institute of Dental and Craniofacial Res., 45 Center Drive, Natcher Building, RM. 4N44F, Bethesda, MD 20892.

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 00–68, Review of R01s.

Date: June 22, 2000.

Time: 8:30 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: Anna Sandberg, PhD, Scientific Review Administrator, National Institute of Dental and Craniofacial Res., 45 Center Drive, Natcher Building, RM. 4AN44F, Bethesda, MD 20892.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 00–57, Review of R01.

Date: August 28, 2000.

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: Philip Washko, PhD, DMD, Scientific Review Administrator, 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 16, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12900 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group Population Research Subcommittee.

Date: June 12–13, 2000.

Time: 7:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jon M. Ranhand, Health Scientist Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Executive Blvd., rm. 5E01, MSC 7510, Bethesda, MD 20892; (301) 435–6884.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: May 16, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12887 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Child Health and Human Development 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 Child Health and Human Development Council.

Date: June 5–6, 2000.

Open: June 5, 2000, 10 a.m. to 5 p.m.

Agenda: The agenda includes: Report of the Director, NICHD, a presentation by the Child Development and Behavior Branch, CRMC, a presentation on the National Reading Panel, and other business of the council.

Place: National Institutes of Health, Building 31, C Wing, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: June 6, 2000, 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Building 31, C Wing, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Open: June 6, 2000, 1 p.m. to adjournment.

Agenda: The meeting will reopen to discuss any policy issues that were raised.

Place: National Institutes of Health, Building 31, C Wing, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Mary Plummer, Committee Management Officer, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 496–1485.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: May 16, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12888 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 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, and the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Initial Review Group, Biological Aging Review Committee.

Date: June 5–6, 2000.

Time: 6 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Chevy Chase, Palladian East and Center Rooms, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: James P. Harwood, Phd, Deputy Chief, Scientific Review Office, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group, Neuroscience of Aging Review Committee.

Date: June 5–6, 2000.

Time: 7 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Holiday Inn, Gaithersburg, MD 20879.

Contact Person: Louise L. Hsu, Phd, The Bethesda Gateway Buiding, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group, Sociology Aging Review Committee.

Date: June 8, 2000.

Time: 11:30 am to 10 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday, Inn, 2101 Wisconsin Ave. NW., Washington, DC 20007.

Contact Person: Mary Ann Guadagno, Phd, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Small Grants in Sociology and Psychology.

Date: June 9, 2000.

Time: 9 am to 6 pm.

Agenda: To review, and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave, NW, Washington, DC 20007.

Contact Person: Mary Ann Guadagno, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Grant application on a population-based, multidisciplinary study of centenarians.

Date: June 12, 2000.

Time: 1 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Ave., Suite 502C, MD 20891 (Telephone Conference Call).

Contact Person: Arthur Schaerdel, DVM, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group, Clinical Aging Review Committee.

Date: June 16, 2000.

Time: 8 am to 7 pm.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: William A. Kachadorian, Phd, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Stress, the HPA, and Health in Aging.

Date: July 11, 2000.

Time: 8 am to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Stanford Terrace Inn, 531 Stanford Avenue, Palo Alto, CA 94306.

Contact Person: Arthur Schaerdel, DVM, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 16, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12889 Filed 5–22–00; 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 the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 00–72, Applicant Interview, R01s.

Date: June 14, 2000.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact person: Anna Sandberg, PhD, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 00–48, R01s.

Date: June 15, 2000.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Anna Sandberg, PhD., Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 00–56, R13.

Date: June 20, 2000.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Natcher Bldg., Rm. 5As.25u, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. George Hausch, Phd., Chief, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel.

Date: June 26–27, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Yujing Liu, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesdsa, MD 20892.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 00–62, Review of RFA.

Date: June 26–27, 2000.

Time: 8:30 am. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1705 Rockville Pike, Rockville, MD 20853.

Contact Person: Yasaman Shirazi, PhD, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institute of Dental & Craniofacial Res, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 00–67, Review of R01.

Date: June 29, 2000.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Yujing Liu, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 00–63, Review of R01.

Date: July 18, 2000.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD., Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 00–64, Review of R01.

Date: July 20, 2000.

Time: 11 a.m. to 12.30 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 00–60, Applicant Interview, P01.

Date: July 25–26, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: H. George Hausch, PhD, 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 15, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12891 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NICHD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NICHD.

Date: June 2, 2000.

Open: 8 am to 12 pm.

Agenda: For the review of Intramural Research Programs and scientific presentations.

Place: National Institutes of Health, Building 6, Room 4A05, Bethesda, MD 20892.

Closed: 1 pm to adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 6, Room 4A05, Bethesda, MD 20892.

Contact Person: Igor B. Dawid, MD, Acting Scientific Director, NICHD, Division of Intramural Research, National Institute of Child Health and Human Development, NIH, 9000 Rockville Pike, Building 31, Room 2A50, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: May 16, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12896 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Initial Review Group, NINR IRG.

Date: June 19–20, 2000.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Holiday Inn—Chevy Chase, Terrace Room, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Mary J. Stephens-Frazier, Phd, Scientific Review Administrator, National Institute of Nursing Research, National Institutes of Health, Natcher Building, Room 3AN32, 45 Center Drive, Bethesda, MD 20892, (301) 594–5971.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: May 16, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12897 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health; National Institute of Allergy and Infectious Diseases; Notice of 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 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 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: Microbiology and Infectious Diseases Research Committee.

Date: June 22–23, 2000.

Open: June 22, 2000, 9 a.m. to 10 a.m.

Agenda: Reports from various Institute staff.

Place: Georgetown Holiday Inn, Mirage I Room, 2101 Wisconsin Avenue, Washington, DC 20007.

Closed: June 22, 2000, 10 a.m. to adjournment.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, Mirage I Room, 2101 Wisconsin Avenue, Washington, DC 20007.

Contact Person: Gary S. Madonna, Phd, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 16, 2000.

Laverne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12899 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: June 14, 2000.

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: Richard E. Weise, Scientific Review Administrator, National Institute of Mental Health, NIH, 6001 Executive Boulevard, Room 6206, MSC 9619, Bethesda, MD 20892–9619, 301–443–7281.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: June 14, 2000.

Time: 2:30 P.M. to 5:30 P.M.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Richard D. Weise, Scientific Review Administrator, National Institute of Mental Health, NIH, 6001 Executive Boulevard, Room 6206, MSC 9619, Bethesda, MD 20892–9619, 301–443–7281.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 6, 2000.

Time: 2 P.M. to 4 P.M.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd, Bethesda, MD 20892, (telephone conference call).

Contact Person: David I. Sommers, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 16, 2000.

LaVerne Y. Stringfield,

Director, Office Federal Advisory Committee Policy.

[FR Doc. 00–12901 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group Kidney, Urologic and Hematologic Diseases D Subcommittee.

Date: June 8–9, 2000.

Time: 12 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Ann A. Hagan, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of

Health, Building 45, Bethesda, MD 20892, (301) 594–8886.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group Diabetes, Endocrinology anhd Metabolic Diseases B Subcommittee.

Date: June 9, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Ramada, Inn., 8400 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Ned Feder, MD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 645, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Digestive Diseases and Nutrition C Subcommittee.

Date: June 13–14, 2000.

Time: 8:30 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: Dan Matsumoto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 649, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8894.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 12, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12904 Filed 5–22–00; 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: Cell Development and Function Integrated Review Group, Cell Development and Function 2.

Date: June 1–2, 2000.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Ramesh K. Nayak, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5146, MSC 7840, Bethesda, MD 20892, (301) 435–1026.

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: Molecular, Cellular and Developmental Neuroscience Integrated Review Group Visual Sciences C Study Section.

Date: June 1–2, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doyle Washington Hotel, 1500 New Hampshire Ave., NW, Washington, DC 20036.

Contact Person: Carole L. Jelsema, PhD, Chief, MDCN Scientific Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892, (301) 435–1249, jelsemac@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: June 4–6, 2000.

Time: 7 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Chapel Hill, One Europa Drive, Chapel Hill, NC 27514.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: June 5, 2000.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites Hotel-Harbor Building, 1000 29th Street NW, Washington, DC 20007.

Contact Person: Eugene Vigil, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7840, Bethesda, MD 20892, (301) 435–1025.

Name of Committee: Center for Scientific Review Special Emphasis Panel SSS–K 02 S.

Date: June 5, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: River Inn, 924 25th Street, NW, Washington, DC 20037.

Contact Person: Lawrence N. Yager, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7808, Bethesda, MD 20892, 301–435–0903, yagerl@csr.nih.gov

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: June 6–7, 2000.

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, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7846, Bethesda, MD 20892, (301) 435–1184.

Name of Committee: Cardiovascular Sciences Integrated Review Group Pathology A Study Section.

Date: June 6–7, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham City Center, 1143 New Hampshire Avenue NW, 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.

(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 16, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–12890 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Meeting: National Toxicology Program; Center for Evaluation of Risks to Human Reproduction

National Toxicology Program (NTP), National Institute of Environmental Health Sciences (NIEHS), Center for the Evaluation of Risks to Human Reproduction, announces an Expert Panel Meeting to complete a review of seven phthalates. The review will take

place on July 12–13, 2000, at the Sheraton National Hotel 900 S. Orme Street (Columbia Pike and Washington Boulevard) Arlington, VA 22204. The meeting is open to the public and attendance is limited only by the availability of space.

Background

The NTP and the NIEHS established the NTP Center for the Evaluation of Risks to Human Reproduction (CERHR) [**Federal Register** (FR), December 14, 1998 (Volume 63, Number 239, page 68782)] in June 1998. The purpose of the Center is to provide timely and unbiased, scientifically sound evaluations of human and experimental evidence for adverse effects on reproduction, including development, which may be caused by agents to which humans are exposed. An expert panel is established to review the scientific evidence on the chemical(s) under review, receive public comments, and then prepare a report on the chemical(s) that is publicly available and is also published in Environmental Health Perspectives (EHP). NTP staff prepares a final NTP Center Report on the evaluated chemical(s) that integrates background information on the chemical(s), findings of the expert panel, a summary of public comments, and a discussion of any additional, recent studies. The final report is made publicly available, distributed to interested stakeholders, appropriate regulatory and research agencies, and published in EHP. A summary of the complete review process can be found on the CERHR website (http://cerhr.niehs.nih.gov), in FR March 20, 2000 (Volume 65, Number 54, page 14497), or a hardcopy may be requested from Ms. Sheren (see below).

The Center is completing a review of the following seven phthalate esters (Chemical Abstracts Service registry numbers are in parentheses):

butyl benzyl phthalate (85–68–7) BBP
di(2-ethylhexyl) phthalate (117–81–7) DEHP
di-isodecyl phthalate (26761–40–0, 68515–49–1) DIDP
di-isononyl phthalate (28553–12–0, 68515–48–0) DINP
di-n-butyl phthalate (84–74–2) DBP
di-n-hexyl phthalate (84–75–3) DnHP
di-n-octyl phthalate (117–84–0) DnOP

An independent, expert panel began the phthalate review at the first Phthalate Expert Panel Meeting on August 17–19, 1999, in Alexandria, VA [FR August 5, 1999 (Volume 64 Number 150, pp. 42707–42708)]. Prior to this meeting, panelists reviewed existing literature in their areas of expertise and provided other panel members with their summary evaluations. This effort involved the review of nearly 1,000 reports or publications covering general toxicity in animals and humans, developmental and reproductive toxicity, and information on human exposure. The Expert Panel continued its work at a second meeting held on December 15–17 in Research Triangle Park, NC [FR November 19, 1999 (Volume 64 Number 223, pp. 63327–63329)]. Summaries of the first two Phthalate Expert Panel meetings are available on the Center's website (http://cerhr.niehs.nih.gov) or can be obtained in hardcopy from Ms. Sheren (see below).

Review Panel

A panel of 16 independent scientists selected for their expertise in various aspects of reproductive toxicology and other relevant areas are conducting this review. The roster of experts follows:

PHTHALATES EXPERT PANEL

Name	Affiliation
Kim Boekelheide, MD, PhD.*	Brown University, Providence, RI
Bob Chapin, PhD	NIEHS, Research Triangle Park, NC
Mike Cunningham, PhD.*	NIEHS, Research Triangle Park, NC
Elaine Faustman, PhD.	University of Washington, Seattle, WA
Paul Foster, PhD	Chemical Industry Institute of Toxicology, Research Triangle Park, NC
Mari Golub, PhD	Cal/EPA, Davis, CA
Rogene Henderson, PhD.	Inhalation Toxicology Research Institute, Albuquerque, NM
Irwin Hinberg, PhD	Health Canada, Ottawa, Ontario, Canada
Bob Kavlock, PhD (chair).	EPA/ORD, Research Triangle Park, NC
Ruth Little, Sc.D	NIEHS, Research Triangle Park, NC
Jennifer Seed, PhD	EPA/OPPT, Washington, DC
Katherine Shea, MD	North Carolina State University, Raleigh, NC
Sonia Tabacova, MD, PhD.	FDA, Rockville, MD
Shelley Tyl, PhD	Research Triangle Institute, Research Triangle Park, NC
Paige Williams, PhD	Harvard University, Cambridge, MA
Tim Zacharewski, PhD.	Michigan State University, East Lansing, MI

*Unable to attend the Final Phthalate Expert Panel meeting.

Preliminary Agenda

The Expert Panel's primary activities at the third and final meeting will be to: (1) Review and approve Integrated Evaluation (Section 5.2) language of the five reports (DnHP, DnOP, DINP, DIDP, and DBP) proposed at the December meeting and generally agreed through review and comment following that meeting and (2) review and discuss Data Summary and Integration (Section 5) of the reports for two phthalates, BBP and DEHP. Initial discussion will be in plenary sessions. All aspects of BBP will be discussed, whereas, the main focus of the DEHP discussion will be data relevant to use of medical products that contain this phthalate. It is expected that the Expert Panel will approve Section 5 language for DEHP and BBP before the end of the July meeting.

Wednesday, July 12, 2000

8:30 am—Introductory Remarks and Status of Phthalate Review
9:00 am—Phthalates Expert Panel Opening Comments

Review of BBP (Section 5.0, including 5.1–5.3)

9:10–9:30 am—Public Comments on BBP
9:30–9:40 am—Break
9:40–12 N—Panel Review of BBP
12N–1:00 pm—Lunch
1:00–2:45 pm—Summaries of Previously Reviewed Phthalate Reports, DnHP, DnOP, DINP, DIDP, DBP (Section 5.2 of each report) Public Comment

Expert Panel Discussion and Approval of Sections 5.2

2:45–3:00 pm—Break

Review of DEHP (Section 5.0, including 5.1–5.3)

3:00–3:15 pm—Public Comments on DEHP
3:15–4:30 pm—Panel Review of DEHP
4:30–6:00 pm—Panelists Work on Plenary Assignments
6:00 pm—Progress Report on Plenary Assignments
6:30 pm—Adjourn

Thursday, July 13, 2000

8:30–10:00 am—Panel Review of Revised BBP Report
10:00–10:15 am—Break
10:15–11:00 am—Panel Review of Revised DEHP Report
11:00–1:00 pm—Panel Works on Plenary Assignments (working lunch)
1:00–2:30 pm—Expert Panel Discussion and Approval of BBP Report
2:30–2:45 pm—Break
2:45–4:15 pm—Expert Panel Discussion and Approval of DEHP Report

4:15–4:45 pm—Public Comments
4:45–5:00 pm—Closing Remarks
5:00 pm—Adjourn

Abbreviations:

BBP—butyl benzyl phthalate (85–68–7)
DEHP—di(2-ethylhexyl) phthalate (117–81–7)
DIDP-di-isodecyl phthalate (26761–40–0, 68515–49–1)
DINP—di-isononyl phthalate (28553–12–0, 68515–48–0)
DBP—di-n-butyl phthalate (84–74–2)
DnHP—di-n-hexyl phthalate (84–75–3)
DnOP—di-n-octyl phthalate (117–84–0)

Reports Available for Public Review

Based on deliberations at the previous meetings. Expert Panel Reports are currently being finalized. Each Report is composed of the following sections:

1.0 Exposure
2.0 General Toxicological and Biological Parameters
3.0 Developmental Toxicity Data
4.0 Reproductive Toxicity Data
5.0 Data Summary & Integration
5.1 Summary (Sections 1–4)
5.2 Integrated Evaluation
5.3 Critical Data Needs

All sections of the reports for DIDP, DINP, DnHP and DnOP will be available to the public after May 15 and for DBP, BBP and DEHP after June 1. They can be obtained electronically on the CERHR website (http://cerhr.niehs.nih.gov) or in hardcopy by contacting Ms. Sheren at the address given below.

Solicitation of Public Comments

As shown on the above preliminary agenda, time is allotted at this meeting for public comments (seven minutes per speaker). It is expected that comments will be directed to the specific portions of the reports being discussed by the Expert Panel. In order to facilitate planning of this meeting, those wishing to make public comments are asked to submit their comments in writing, provide an electronic copy, and notify Ms. Sheren, (see below) no later than June 30, 2000. Please reference the specific draft phthalate report the comments address. Provide your name, affiliation, mailing address, phone, fax, e-mail and sponsoring organization (if any) and send a copy of the statement or talking points to Ms. Sheren. This information will be provided to the Panel and will assist the Chair and Panel Members in identifying issues for discussion. Registration for public comments will also be available on-site (7:30—8:30 a.m.). Those registering on site are asked to bring 40 copies of their statement or talking points.

A written statement may be submitted in lieu of making an oral presentation. These written comments should be received by Ms. Sheren no later than June 30 in order for them to be considered at the July 12–13 meeting. Persons sending written comments are asked to provide their name, affiliation, mailing address, phone, fax, e-mail and sponsoring organization (if any) and provide an electronic copy. Please reference the specific draft phthalate report the comments address.

Following this meeting, there will be another opportunity for written comment on each Expert Panel Report. These public comments will be considered in the final NTP Center Report prepared by the NTP staff and subsequently distributed to Federal and State Agencies, interested stakeholders and the public.

An index of written public comments will be posted on the CERHR website (*http://cerhr.niehs.nih.gov*). This index and copies of specific public comments may be obtained by contacting Ms. Sheren.

For other questions or additional information about the meeting, please contact Ms. Peggy Sheren at CERHR, 1800 Diagonal Road, Suite 500, Alexandria, VA 22314–2808, Phone: (703) 838–9440, *psheren@sciences.com.*

Dated: May 12, 2000.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 00–12908 Filed 5–22–00; 8:45 am]

BILLING CODE 4140–01–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2000 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of Funding Availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Treatment (CSAT) announces the availability of FY 2000 funds for grants for the following activity. This activity is discussed in more detail under section 3 of this notice. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Program Announcement, including Part I, Programmatic Guidance for Grants to Expand Substance Abuse Treatment Capacity in Targeted Areas of Need, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing an application.

Activity	Application deadline	Est. funds FY 2000	Est. No. of awards	Project period
HIV Services Integration Planning Grants.	July 28, 2000	up to $3.5 million	25–30	1 year

The actual amount available for awards and their allocation may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2000 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law 106–113. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The SAMHSA Centers' substance abuse and mental health services activities address issues related to Healthy People 2000 objectives of Mental Health and Mental Disorders; Alcohol and Other Drugs; Clinical Preventive Services; HIV Infection; and Surveillance and Data Systems. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone: 202–512–1800).

SAMHSA will publish additional notices of available funding opportunities for FY 2000 in subsequent issues of the **Federal Register**.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 6/99; OMB No. 0920–0428). The

application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from the organization specified for the activity covered by this notice (see Section 3).

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. This is to ensure receipt of all necessary forms and information, including any specific program review and award criteria.

The PHS 5161–1 application form and the full text of the activity described in section 4 are also available electronically via SAMHSA's World Wide Web Home Page (address: http://www.samhsa.gov).

Application Submission: Applications must be submitted to: SAMHSA Programs, Center for Scientific Review, 5600 Fishers Lane, Room 17–89, Rockville, MD 20857.

Applications sent to an address other than the address specified above will be returned to the applicant without review.

Application Deadlines: The deadlines for receipt of applications are listed in the table above. Competing applications must be received by the indicated receipt date to be accepted for review. An application received after the deadline may only be accepted if it carries a legible proof-of-mailing date assigned by the carrier and that date is not later than one week prior to the deadline date. Private metered postmarks are not acceptable as proof of timely mailing. Applications received after the deadline date will be returned to the applicant without review.

FOR FURTHER INFORMATION CONTACT: Requests for activity-specific technical information should be directed to the program contact person identified for the activity covered by this notice (see section 3).

Requests for information concerning business management issues should be directed to the grants management contact person identified for the activity covered by this notice (see Section 3).

Programmatic Information

1. Program Background and Objectives

SAMHSA's mission within the Nation's health system is to improve the quality and availability of prevention, early intervention, treatment, and rehabilitation services for substance abuse and mental illnesses, including co-occurring disorders, in order to improve health and reduce illness, death, disability, and cost to society.

Reinventing government, with its emphases on redefining the role of Federal agencies and on improving customer service, has provided SAMHSA with a welcome opportunity to examine carefully its programs and activities. As a result of that process, SAMHSA moved assertively to create a renewed and strategic emphasis on using its resources to generate knowledge about ways to improve the prevention and treatment of substance abuse and mental illness and to work with State and local governments as well as providers, families, and consumers to effectively use that knowledge in everyday practice.

2. Criteria for Review and Funding

2.1 General Review Criteria

Competing applications requesting funding under the specific project activity in section 3 will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

2.2 Award Criteria for Scored Applications

Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

3. Special FY 2000 SAMHSA Activities

Minority Community Planning Grants for Integration of HIV/AIDS and Substance Abuse Treatment, Mental Health, Primary Care and Public Health (Short Title: HIV Services Integration Planning, GFA No. TI 00–008)

- Application Deadline: July 28, 2000.
- Purpose: The Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Services Administration (SAMHSA), announces the availability of funds for grants for community planning and consensus building. Grantees will develop plans that describe how organizations and agencies should work together to deliver integrated substance abuse treatment, HIV/AIDS prevention and treatment, mental health, primary care and public health services. The targeted populations are racial and ethnic groups who are the highest risk for substance abuse and HIV including: African Americans, Latinos/Hispanics, or other racial or ethnic groups at high risk. The grants are part of a Phase I Planning Program.

Grants can be used for community planning and consensus development. The following are some examples of activities that may be supported: Providing community education; for example, training on community planning and community change strategies; developing an executive advisory committee (include members from community, public, private, and corporate sectors); educating and training groups on organizational and community change dynamics; bringing together various community groups to seek advice and consensus; providing expert consultation and technical assistance; funding needed for travel and other logistical costs to consumers, family members, and others to be able to participate on committees or in programs; evaluating the community planning process; and, other activities that focus on community planning and consensus building.

- Eligible Applicants: Only government units may apply because of their responsibility for the needs of their citizens. The success of the program will depend on their authority and their ability to coordinate a variety of resources and to help their citizens apply for future funding.

State government applicants must:

- Have a working relationship with a city, town, and/or county agency in order to develop plans for their targeted population.
- Show, in a formal MOU (memorandum of understanding), an ongoing public health agreement that describes the working relationship (for example, joint activities).
- Have an annual AIDS case rate of, or greater than, 10 out of 100,000 people.

Local Government applicants (cities, towns, and counties) and Native American Tribal Communities must be located in one of the following:

- A State with an annual AIDS case rate of, or greater than, 10 out of 100,000 people.
- An MSA (metropolitan statistical area) with an annual AIDS case rate of, or greater than, 15 out of 100,000 people.

In the absence of consistent reporting of HIV data by all jurisdictions, the best indicator of the magnitude of the epidemic is AIDS case rates derived from the Center for Disease Control and

Prevention (CDC) HIV/AIDS surveillance reports.

• Amount: It is estimated that up to $3.5 million will be available to support 25 to 30 grants under this announcement in fiscal year 2000. The average award is expected to range from $100,000 to $150,000 in total costs (direct and indirect).

• Period of Support: Grants will be awarded for a period for 12 months.

• *Catalog of Federal Domestic Assistance Number:* 93.230.

• Program Contact: For questions concerning program issues, contact: David C. Thompson, Clinical Interventions and Organizational Models Branch, Division of Practice and Systems Development, Center for Substance Abuse Treatment, SAMHSA, Rockwall II, Suite 740, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6523, E-Mail: dthompso@samhsa.gov.

For questions regarding grants management issues, contact: Kathleen Sample, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9667, E-Mail: ksample@samhsa.gov.

• Application kits are available from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

4. Public Health System Reporting Requirements

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements.

Application guidance materials will specify if a particular FY 2000 activity is subject to the Public Health System Reporting Requirements.

5. PHS Non-use of Tobacco Policy Statement

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

6. Executive Order 12372

Applications submitted in response to the FY 2000 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: May 17, 2000.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 00–12910 Filed 5–22–00; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Salinas River National Wildlife Refuge

AGENCY: Fish and Wildlife Service.

ACTION: Notice of Intent to Prepare a Comprehensive Conservation Plan and Associated National Environmental Policy Act Document for Salinas River National Wildlife Refuge, Monterey County, California.

SUMMARY: The Fish and Wildlife Service (Service) is preparing a Comprehensive Conservation Plan (CCP) and National Environmental Policy Act (NEPA) document for Salinas River National Wildlife Refuge. This notice advises the public that the Service intends to gather information necessary to prepare a CCP and environmental documents pursuant to the National Wildlife Refuge System Administration Act of 1966, as amended, and NEPA. The public is invited to participate in the planning process. The Service is furnishing this notice in compliance with the Service CCP policy to advise other agencies and the public of our intentions, and obtain suggestions and information on the scope of issues to include in the environmental document.

DATES: To ensure that the Service has adequate time to evaluate and incorporate suggestions and other input into the planning process, comments should be received by June 22, 2000. A public meeting to solicit comments on the contents of the CCP and the vision of the refuge for the next 15 years will be held on June 1, 2000.

ADDRESSES: Send written comments or requests to be added to the mailing list to the following address: Christopher Barr, Refuge Manager—Salinas River NWR, San Francisco Bay National Wildlife Refuge Complex, P.O. Box 524, Newark, California 94560. The scoping meeting will be held at California State University-Monterey, 100 Campus Center, Building 29, Rooms 114–116, Seaside, California from 6 to 8 p.m.

FOR FURTHER INFORMATION CONTACT: Christopher Barr, Refuge Manager, (510) 792–4074 or 0222.

SUPPLEMENTARY INFORMATION: The National Wildlife Refuge System Administration Act of 1966, as amended in 1997, mandates that all lands within the National Wildlife Refuge System are to be managed in accordance with an

approved CCP. The CCP will guide management decisions for the next 15 years and identify refuge goals, long-range objectives, and management strategies for achieving these objectives. The planning process will consider many elements, including habitat and wildlife management, habitat protection, recreational use, and environmental effects. Public input into this planning process is very important. The CCP will provide other agencies and the public with a clear understanding of the desired conditions for the refuges and how the Service will implement management strategies.

The Service is soliciting information from the public via written comments. The Service will send out planning updates to people who are interested in the CCP process. These mailings will provide information on how to participate in the CCP process. Comments received will be used to develop goals, key issues evaluated in the NEPA document, and habitat management strategies. Additional opportunities for public participation will occur throughout the process. The CCP is expected to be completed in December 2000.

Background

The refuge is located 11 miles northeast of the City of Monterey at the confluence of the Salinas River and Monterey Bay. The 366 acre refuge was established in 1973 because of its ''particular value in carrying out the national migratory bird management program''. It was acquired by the Service through a transfer of surplus military land from the U.S. Army and the U.S. Coast Guard. From 1974 through 1991 the area was operated as a Wildlife Management Area under a cooperative agreement with the California Department of Fish and Game. By the mid-1980s, the growing importance of the refuge to sensitive species prompted the need for more active management and protection of its natural resources. In 1991, the Service began managing the area as a refuge under the National Wildlife Refuge System Administration Act and the Refuge Recreation Act of 1962. Management on the refuge emphasizes threatened and endangered species and sensitive migratory birds.

The primary purpose of the refuge is to provide habitat for endangered, threatened, and candidate species by providing secure habitat (*e.g.,* nesting, feeding and roosting areas) for them. Endangered species on the refuge include Smith's blue butterfly (Euphilotes enoptes smithi), California brown pelican (Pelecanus occidentalis), and sand gilia (Gilia tenuiflora ssp. arenaria); threatened species include western snowy plover (Charadrius alexandrinus nivosus), and southern sea otter (Enhydra lutris nereis). The endangered Menzies wallflower (Erysimum menziesii) and threatened Monterey spineflower (Chorizanthe pungens var. pungens) may occur on the refuge.

It is expected that a draft CCP and NEPA document will be available for public review and comment in fall 2000.

Dated: May 17, 2000.

Wayne S. White,

California/Nevada Operations Manager, U.S. Fish and Wildlife Service, Sacramento, California.

[FR Doc. 00–13024 Filed 5–22–00; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of an Application for a Permit for the Incidental Take of the Houston Toad (*Bufo houstonensis*) During Construction of One Single Family Residence on up to 0.5 Acres of the 0.5-Acre Lot 6, Section 8, in the Circle D Country Acres Subdivision, Bastrop County, TX.

SUMMARY: William and Johnna Cantrell (Applicants) have applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The Applicants have been assigned permit number TE–025654–0. The requested permit, which is for a period of 5 years, would authorize the incidental take of the endangered Houston toad (*Bufo houstonensis*). The proposed take would occur as a result of the construction and occupation of a single family residence on up to 0.5 acres of the 0.5-acre Lot 6, Section 8, in the Circle D Country Acres Subdivision in Bastrop County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application and EA/HCP should be received on or before June 22, 2000.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Tannika Englehard, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Field Supervisor, Ecological Services Field Office, Austin, Texas, at the above address. Please refer to permit number TE–025654–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Tannika Englehard at the above Austin Ecological Services Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicants: William and Johnna Cantrell plan to construct a single family residence on up to 0.5 acres of the 0.5-acre Lot 6, Section 8, in the Circle D Country Acres Subdivision in Bastrop County, Texas. This action will eliminate less than 1 acre of habitat and result in indirect impacts within the lot. The applicants propose to compensate for this incidental take of the Houston toad by providing $1,500 to the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat, as identified by the Service.

Geoffrey L. Haskett,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 00–12883 Filed 5–22–00; 8:45 am]

BILLING CODE 4510–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1430–06; WYW 147724]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) proposes to withdraw approximately 61.45 acres of public land in Fremont County, to protect capital improvements of the Bridge Station Campground site. This notice closes the land for up to 2 years from surface entry and mining. The lands are not available for mineral leasing in accordance with the BLM's Green River Resource Management Plan.

DATES: Comments and requests for a public meeting must be received by August 21, 2000.

ADDRESSES: Comments and requests should be sent to the BLM Wyoming State Director, P.O. Box 1828, Cheyenne, Wyoming 82003–1828.

FOR FURTHER INFORMATION CONTACT: Janet Booth, BLM Wyoming State Office, 307–775–6124, or Stan McKee, BLM Rock Springs Field Office Manager, 280 Highway 191 North, Rock Springs, Wyoming 82901, 307–352–0256.

SUPPLEMENTARY INFORMATION: On April 28, 2000, a petition/application was approved allowing the BLM to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Sixth Principal Meridian

T. 29 N., R. 102 W.,
Sec. 5, W½ of Lot 3, Lot 4.

The area described contains approximately 61.45 acres in Fremont County.

The purpose of the proposed withdrawal is to protect the capital improvements associated with development and maintenance of the Bridge Station Campground site pending further study and possibly longer-term actions.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the BLM.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Wyoming State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. Licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature which will not significantly impact the values to be protected by the withdrawal may be allowed with the approval of an authorized officer of the BLM during the segregative period.

Dated: May 12, 2000.

Alan R. Pierson,

State Director.

[FR Doc. 00–12885 Filed 5–22–00; 8:45 am]

BILLING CODE 4310–22–U

DEPARTMENT OF THE INTERIOR

National Park Service

REVISION—Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the 611th Air Support Group, United States Air Force, Elmendorf Air Force Base, AK

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of 611th Air Support Group, United States Air Force, Elmendorf Air Force Base, AK.

A detailed assessment of the human remains was made by the W.H. Over Museum, South Dakota State Archeological Research Center, and 611th Air Support Group, USAF professional staff in consultation with representatives of the Aleut Corporation, and the **Aleutian Pribilof Islands Association, Inc.**

In 1943, human remains representing one individual were uncovered during a legally authorized runway construction project on Shemya Island, AK conducted by Mr. C.B. Kimbrough, a contracted civil engineer with the Baker Engineering Company, Rochester, PA. In 1944, these human remains were donated by Mr. Kinbrough to the Dakota Museum, University of South Dakota, Vermillion, SD (now known as the W.H. Over Museum). No known individual was identified. The 32 associated funerary objects include stone projectile points and animal bone tools related to sea and land hunting and fishing.

Based on the geographic location and material culture, this individual has been identified as Native American, most likely affiliated with the Aleut culture. The determination of cultural affiliation has been based upon the relative geographic isolation of Shemya Island, archeological evidence from the Shemya Island region, past and present Aleut oral tradition, historical evidence, and expert anthropological opinion. These forms of evidence all indicate that Aleut people were the sole pre-contact (pre-1741 A.D.) occupants of Shemya Island.

Based on the above mentioned information, officials of the 611th Air Force Group, USAF have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the 611th Air Force Group, USAF have also determined that, pursuant to 43 CFR 10.2 (d)(2), the 32 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the 611th Air Force Group, USAF have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the **Aleut Corporation**.

This notice has been sent to officials of the Aleut Corporation, and the **Aleutian Pribilof Islands Association, Inc**. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Captain Christopher A. Pleiman, Cultural Resources Manager, 611th Air Support Group, U.S. Air Force, 6900 9th Street, Ste. 360, Elmendorf AFB, AK 99506-2270; telephone: (907) 552-7442, before June 22, 2000. Repatriation of the human remains and associated funerary

objects to the Aleut Corporation may begin after that date if no additional claimants come forward.

Dated: May 8, 2000.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 00–12848 Filed 5–22–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of Agate Fossil Beds National Monument, National Park Service, Harrison, NE and Scotts Bluff National Monument, National Park Service, Gering, NE

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of Agate Fossil Beds National Monument, Harrison, Nebraska, and Scotts Bluff National Monument, Gering, Nebraska.

A detailed assessment of the human remains and associated funerary objects was made by National Park Service professional staff in consultation with representatives of the Arapahoe Tribe of the Wind River Reservation, Wyoming; Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Crow Tribe of Montana; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Santee Sioux Tribe of the Santee Reservation of Nebraska; Shoshone Tribe of the Wind River Reservation, Wyoming; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota. Several other tribes, including the Apache Tribe of Oklahoma; Blackfeet Tribe of the Blackfeet Indian Reservation of Montana; Cheyenne-Arapaho Tribes of Oklahoma; Comanche Indian Tribe, Oklahoma; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Northwestern Band of Shoshoni Nation of Utah (Washakie); Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Omaha Tribe of Nebraska; Pawnee Indian Tribe of Oklahoma; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Spirit Lake Tribe, North Dakota; Standing Rock Sioux Tribe of North & South Dakota; and the Yankton Sioux Tribe of South Dakota were also invited to consult, but did not participate to the extent of the other Indian tribes.

In 1968, human remains representing eight individuals were donated to Agate Fossil Beds National Monument by Margaret Cook. No known individuals were identified. The 11 associated funerary objects consist of one soil burial matrix containing numerous glass beads, six shell buttons and button fragments, one brass bell, one collection of cloth and leather fragments, one collection of plant seeds, and one deer bone.

Collection records indicate that all eight sets of human remains were recovered from the Nebraska panhandle region. One individual is documented as coming from a highway gravel borrow pit north of Mitchell, Nebraska, in 1955. The exact provenience of the other seven individuals is not known. It is assumed that all eight individuals were excavated by or given to Margaret's husband Harold Cook, a paleontologist, geologist, and archeologist who operated a museum in the Cook home. The remains of two individuals are known to have been given to Cook around 1921 by a local physician from Harrison, Nebraska.

Between 1935 and 1945, human remains representing four individuals were donated to Scotts Bluff National Monument by Edgar McKinley, F.J. Strasbaugh, A.C.G. Kaempher, and R.E. Sweet. Scotts Bluff National Monument possesses an additional set of human remains representing seven individuals. No known individuals were identified. The five associated funerary objects consist of two bone awl tips, one jasper rock flake, and two animal bones.

Collection records indicate that all eleven sets of human remains, now held at Scotts Bluff National Monument, were recovered from the Nebraska panhandle region. The four donated sets of human remains came from generally known localities: the McKinley farm, a gravel pit along the North Platte River near Gering Nebraska, the Greenwood Ranch, and Luckenbill Place near Bridgeport, Nebraska. The exact provenience of the other seven individuals and precise date of acquisition is not known.

Through the application of physical anthropological examinations, conducted by Peer Moore-Jansen of Wichita State University in March 1995, and the presence of diagnostic associated funerary objects, 18 of the individuals describe above were identified as Native American. The physical anthropological examinations also determined that one of the individuals described above is likely Native American. Oral history evidence, presented by representatives of the consulting tribes listed above, identified a cultural affiliation to all of the above described human remains held by Agate Fossil Beds National Monument and Scotts Bluff National Monument. This oral history evidence addressed the issue of a ''shared group identity'' of ancient peoples of the Nebraska panhandle region and their relationship to modern tribal groups recognized by the Unites States Federal government.

Utilizing expert opinion, collection records, geographical, physical anthropological, and oral tradition evidence, it has been determined that the Arapahoe Tribe of the Wind River Reservation, Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Cheyenne River Sioux Tribe of the Cheyenne River Reservation, Crow Creek Sioux Tribe of the Crow Creek Reservation, Crow Tribe of Montana, Lower Brule Sioux Tribe of the Lower Brule Reservation, Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Ponca Tribe of Indians of Oklahoma, Ponca Tribe of Nebraska, Rosebud Sioux Tribe of the Rosebud Indian Reservation, Santee Sioux Tribe of the Santee Reservation, Shoshone Tribe of the Wind River Reservation, Shoshone-Paiute Tribes of the Duck Valley Reservation, and the Three Affiliated Tribes of the Fort Berthold Reservation, as well as the Flandreau Santee Sioux Tribe, Oglala Sioux Tribe of the Pine Ridge Reservation and the Yankton Sioux Tribe are culturally affiliated with the human remains and associated funerary objects described above.

Based on the above mentioned information, officials of the National Park Service have determined that, pursuant to 43 CFR 10.2(d)(1), the human remains listed above represent the physical remains of 19 individuals of Native American ancestry. Officials of the National Park Service have also

determined that, pursuant to 43 CFR 10.2(d)(2), the 16 associated funerary objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the National Park Service have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Arapahoe Tribe of the Wind River Reservation, Wyoming; Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Crow Tribe of Montana; Flandreau Santee Sioux Tribe of South Dakota; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Santee Sioux Tribe of the Santee Reservation of Nebraska; Shoshone Tribe of the Wind River Reservation, Wyoming; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and Yankton Sioux Tribe of South Dakota.

This notice has been sent to officials of the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Blackfeet Tribe of the Blackfeet Indian Reservation of Montana; Cheyenne Arapaho Tribes of Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Comanche Indian Tribe, Oklahoma; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Crow Tribe of Montana; Flandreau Santee Sioux Tribe of South Dakota; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Kiowa Indian Tribe of Oklahoma; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Northwestern Band of Shoshoni Nation of Utah (Washakie); Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Omaha Tribe of Nebraska; Pawnee Indian Tribe of Oklahoma; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Santee Sioux Tribe of the Santee Reservation of Nebraska; Shoshone Tribe of the Wind River Reservation, Wyoming; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Spirit Lake Tribe, North Dakota; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and the Yankton Sioux Tribe of South Dakota. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects, should contact Superintendent Ruthann Knudson, Agate Fossil Beds National Monument, 301 River Road, Harrison Nebraska 69347-2734; telephone: (308) 668-2211, fax: (308) 668-2318, ruthann—knudson@nps.gov, before June 22, 2000. Repatriation of these human remains and cultural items to the Arapahoe Tribe of the Wind River Reservation, Wyoming; Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Crow Tribe of Montana; Flandreau Santee Sioux Tribe of South Dakota; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Santee Sioux Tribe of the Santee Reservation of Nebraska; Shoshone Tribe of the Wind River Reservation, Wyoming; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and Yankton Sioux Tribe of South Dakota may begin after the above date if no additional claimants come forward.

Dated: April 3, 2000.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 00–12852 Filed 5–22–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains from Hawaii in the Possession of the National Museum of Health and Medicine, Armed Forces Institute of Pathology, Washington, DC

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains from Hawaii in the possession of the National Museum of Health and Medicine [formerly the Army Medical Museum (AMM)], Armed Forces Institute of Pathology, Washington, DC.

A detailed assessment of the human remains was made by National Museum of Health and Medicine professional staff in consultation with representatives of Hui Malama I Na Kupuna O Hawai'i Nei, Kauai/Niihau Island Burial Council, Molokai Island Burial Council, Hawai'i Island Burial Council, and the Office of Hawaiian Affairs.

Before 1876, human remains representing one individual were collected from an unknown site in Hawaii by W.H. Jones for the Smithsonian Institution. In 1876, these human remains were transferred to the AMM from the Smithsonian Institution. No known individuals were identified. No associated funerary objects are present.

Based on accession records, this individual has been identified as Native Hawaiian.

At an unknown date, human remains representing one individual were removed from an ''old battlefield'' on Oahu by W.R. DeWitt, Assistant Surgeon, U.S. Army. In 1862, these human remains were sent to the AMM. No known individual was identified. No associated funerary objects are present.

Based on accession records, this individual has been identified as Native Hawaiian.

Before 1869, human remains representing one individual were taken from Kauai by person(s) unknown under unknown circumstances. In 1869, these human remains were transferred to the AMM from the Smithsonian Institution. No known individual was identified. No associated funerary objects are present.

Based on accession records, this individual has been identified as Native Hawaiian.

Based on the above mentioned information, officials of the National Museum of Health and Medicine, Armed Forces Institute of Pathology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of three individuals of Native American ancestry. Officials of the National Museum of Health and Medicine, Armed Forces Institute of Pathology have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and Hui Malama I Na Kupuna O Hawai'i Nei, Kauai/Niihau Island Burial Council, Molokai Island Burial Council, Hawai'i Island Burial Council, and the Office of Hawaiian Affairs

This notice has been sent to officials of Hui Malama I Na Kupuna O Hawai'i Nei, Kauai/Niihau Island Burial Council, Molokai Island Burial Council, Hawai'i Island Burial Council, and the Office of Hawaiian Affairs. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Dr. Lenore Barbian, Collection Manager, National Museum of Health and Medicine, Armed Forces Institute of Pathology, Walter Reed Army medical Center, Bldg. 54, Washington, DC 20036; telephone: (202) 782–2203; email: barbian@afip.osd.mil , before June 22, 2000. Repatriation of the human remains to Hui Malama I Na Kupuna O Hawai'i Nei may begin after that date if no additional claimants come forward.

The National Park Service is not responsible for the determinations within this notice.

Dated: May 8, 2000.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 00–12851 Filed 5–22–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains from Mankato, MN in the Possession of the Public Museum of Grand Rapids, Grand Rapids, MI

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains from Mankato, MN in the possession of the Public Museum of Grand Rapids, Grand Rapids, MI.

A detailed assessment of the human remains was made by Public Museum of Grand Rapids professional staff in consultation with representatives of the Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota; the Spirit Lake Tribe, North Dakota; the Shakopee Mdewakanton Sioux Community of Minnesota; and the Prairie Island Indian Community of Minnesota Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota.

Around 1915, human remains representing one individual were obtained from G.S. Knapp of Chicago, IL by the Public Museum of Grand Rapids by an unknown method. This individual has been identified as Marpiya Okinajin, a Dakota man executed in 1862 following the United States—Dakota War. No associated funerary objects are present.

The identification of these human remains as those of Marpiya Okinajin is based on a note found with the remains indicating it is a piece of skin from ''Chief Cut Nose'', an alleged leader of the ''New Ulm Massacre''. Historic documents confirm that Marpiya Okinajin was among the 38 men executed by the U.S. government on December 26, 1862 at Mankato, MN. ''Cut Nose'' was used as the translation of Marpiya Okinajin by Americans at the time. Further information indicates that following his execution, this piece of Marpiya Okinajin's skin was removed from his body by a ''Dr. Sheardown.'' There is no information to indicate these human remains are not those of Marpiya Okinajin. No verified lineal descendants have come forward, and a claim of cultural affiliation has been submitted by representatives of the Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota.

Based on the above mentioned information, officials of the Public Museum of Grand Rapids have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Public Museum of Grand Rapids have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota; the Spirit Lake Tribe, North Dakota; the Shakopee Mdewakanton Sioux Community of Minnesota; and the Prairie Island Indian Community of Minnesota Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota.

This notice has been sent to officials of the Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota; the Spirit Lake Tribe, North Dakota; the Shakopee Mdewakanton Sioux Community of Minnesota; and the Prairie Island Indian Community of Minnesota Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains or lineal descendants of Maripiya Okinajin should contact Timothy J. Chester, Director, Public Museum of Grand Rapids, 272 Pearl NW, Grand Rapids, MI 49504; telephone: (616) 456-3511, before June 22, 2000. Repatriation of the human remains to the Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota may begin after that date if no additional claimants come forward.

Dated: May 8, 2000.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 00–12849 Filed 5–22–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Repatriate Cultural Items in the Possession of the San Diego Archaeological Center, San Diego, CA

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the San Diego Archaeological Center, San Diego, CA which meet the definition of ''unassociated funerary object'' under Section 2 of the Act.

The 11 cultural items are projectile points and four bags of loose beads.

In 1973, the Santee Greens site (CA Sdi 5699) was excavated prior to residential development by Archaeological Consulting Technology, Inc. (ACT) under contract with Time for Living, Inc. ACT stored these cultural items until 1998, when collections including these cultural items were donated to the San Diego Archaeological Center, San Diego, CA. The human remains recovered with these cultural items were repatriated to the Cuyapaipe Community of Degueno Mission Indians of the Cuyapaipe Reservation in 1973.

Based on geographic location and archeological evidence, the Santee Greens site has been identified as a Kumeyaay village site dating to the Late Archaic period (c. 760–1030 A.D.). Based on site information, excavation records, and manner of interment, these cultural items have been identified as unassociated funerary objects. Archeological literature and continuity of occupation indicates cultural affiliation with the Kumeyaay tribes.

Based on the above mentioned information, officials of the San Diego Archaeological Center have determined that, pursuant to 43 CFR 10.2(d)(2)(ii), these 11 cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of the San Diego Archaeological Center have also determined that, pursuant to 43 CFR 10.2(e), there is a relationship of shared group identity which can be reasonably traced between these items and the Campo Band of Diegueno Mission Indians of the Campo Reservation, the Capitan Grande Band of Diegueno Mission Indians of California, the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, the Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, the Cuyapaipe Community of Degueno Mission Indians of the Cuyapaipe Reservation, the Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, the La Posta Band of Diegueno Mission Indians of the La Posta Reservation, the Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, the Jamul Indian Village, the Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, the San Pasqual Band of Diegueno Mission Indians of California, the Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, and the Sycuan Band of Diegueno Mission Indians of California.

This notice has been sent to officials of the Kumeyaay Cultural Repatriation Committee, the Campo Band of Diegueno Mission Indians of the Campo Reservation, the Capitan Grande Band of Diegueno Mission Indians of California, the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, the Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, the Cuyapaipe Community of Degueno Mission Indians of the Cuyapaipe Reservation, the Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, the La Posta Band of Diegueno Mission Indians of the La Posta Reservation, the Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, the Jamul Indian Village, the Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, the San Pasqual Band of Diegueno Mission Indians of California, the Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, and the Sycuan Band of Diegueno Mission Indians of California. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Yvonne Lever, San Diego Archaeological Center, 334 Eleventh Ave., San Diego, CA 92101; telephone: (619) 239–1868 before June 22, 2000. Repatriation of these objects to the Kumeyaay Cultural Repatriation Committee on behalf of the Campo Band of Diegueno Mission Indians of the Campo Reservation, the Capitan Grande Band of Diegueno Mission Indians of California, the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, the Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, the Cuyapaipe Community of Degueno Mission Indians of the Cuyapaipe Reservation, the Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, the La Posta Band of Diegueno Mission Indians of the La Posta Reservation, the Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, the Jamul Indian Village, the Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, the San Pasqual Band of Diegueno Mission Indians of California, the Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, and the Sycuan Band of Diegueno Mission Indians of California may begin after that date if no additional claimants come forward.

Dated: May 8, 2000.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 00–12850 Filed 5–22–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated February 14, 2000, and published in the **Federal Register** on February 22, 2000, (65 FR 35), Isotec Inc., 3858 Benner Road, Miamisburg, Ohio 45342, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone(1237)	I
N-Ethylamphetamine (1475)	I
N-N-Dimethylamphetamine (1480)	I
Aminorex (1585)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3, 4,-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455).	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
Acetylmethadol (9601)	I
Alphacetylmethadol Except Levo-Alphacetylmethadol (9603).	I
Normethadone (9635)	I
3-Methylfentanyl (9813)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbonitrile (8603).	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II

Drug	Schedule
Ethylmorphone (9190)	II
Hydrocodone (9193)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Levo-Alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The firm plans to manufacture small quantities of the listed controlled substances to produce standards for analytical laboratories.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Iostec, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated the company on a regular basis to ensure that its continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: May 12, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–12842 Filed 5–22–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By notice dated February 10, 2000, and published in the **Federal Register** on February 17, 2000, (65 FR 33), Novartis Pharmaceutical Corporation, 59 Route 10, East Hanover, New Jersey 07926, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of methylphenidate (1724), a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture finished product for distribution to its customers.

DEA has considered the factors in title 21, United States Code, section 823(a) and determined that the registration of Novartis Pharmaceutical Corporation to manufacture methylphenidate is consistent with the public interest at this time. DEA has investigated Novartis Pharmaceutical Corporation on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: May 12, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–12841 Filed 5–22–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 30, 2000, Radian International LLC, 14050 Summit Drive #121, P.O. Box 201088, Austin, Texas 78720–1088, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N-N-Dimethylamphetamine (1480)	I
Aminorex (1585)	I
4-Methylaminorex (cis isomer) (1590).	I
Methaqualone (2565)	I
Alpha-Ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
3,4,5-Trimethoxyamphetamine (7390).	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396)	I
2,5-Dimethoxy-4-ethylamphetamine (7399).	I
3,4-Methylenedioxyamphetamine (7400).	I
5-Methoxy-3,4-methylenedioxyamphetamine (7401).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Acetyldihydrocodeine (9051)	I
Benzylmorphine (9052)	I
Codeine-N-oxide (9053)	I
Dihydromorphine (9145)	I
Heroin (9200)	I
Morphine-N-oxide (9307)	I
Normorphine (9313)	I
Pholcodine (9314)	I
Acetylmethadol (9601)	I
Allyprodine (9602)	I
Alphacetylmethadol except Levo-Alphacetylmethadol (9603).	I
Alphameprodine (9604)	I
Alphamethadol (9605)	I
Betacetylmethadol (9607)	I
Betameprodine (9608)	I
Betamethadol (9609)	I
Betaprodine (9611)	I
Hydromorphinol (9627)	I
Noracymethadol (9633)	I
Norlevorphanol (9634)	I
Normethadone (9635)	I
Trimeperidine (9646)	I
Para-Fluorofentanyl (9812)	I
3-Methylfentanyl (9813)	I
Alpha-methylfentanyl (9814)	I
Acetyl-alpha-methylfentanyl (9815)	I
Beta-hydroxyfentanyl (9830)	I
Beta-hydroxy-3-methyfentanyl (9831)	I
Alpha-Methylthiofentanyl (9832)	I
3-Methylthiofentanyl (9833)	I
Thiofentanyl (9835)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phenmetrazine (1631)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II

Drug	Schedule
Glutethimide (2550)	II
Nabilone (7379)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
1-Piperid-inocyclohexanecarbonitrile (8603).	II
Alphaprodine (9010)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Morphine (9300)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to manufacture small quantities of the listed controlled substances to make deuterated and nondeuterated drug reference standards which will be distributed to analytical and forensic laboratories for drug testing programs.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 24, 2000.

Dated: May 11, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–12844 Filed 5–22–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 10, 2000, Sigma Chemical Company, Subsidiary of Sigma-Aldrich Company, 3500 Dekalb Street, St. Louis, Missouri 63118, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Aminorex (1585)	I
Methaqualone (2565)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-Bromo-2, 5-dimethoxyamphetamine (7391).	I
4-Bromo-2, 5-dimethoxyphenethylamine (7392).	I
2, 5-Dimethoxyamphetamine (7396)	I
3, 4-Methylenedioxyamphetamine (7400).	I
N-Hydroxy-3, 4-methylenedioxyamphetamine (7402).	I
3, 4-Methylenedioxy-N-ethylamphetamine (7404).	I
3, 4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Bufotenine (7433)	I
Psilocyn (7438)	I
Heroin (9200)	I
Normorphine (9313)	I
Etonitazene (9624)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270).	
Secobarbital (2315	II
Glutethimide (2550)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium powdered (9639)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The firm plans to repackage and offer as pure standards controlled substances in small milligram quantities for drug testing and analysis.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 22, 2000.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: April 25, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–12843 Filed 5–22–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2066–00; AG Order No. 2305–2000]

RIN 1115–AE26

Termination of the Province of Kosovo in the Republic of Serbia in the State of the Federal Republic of Yugoslavia (Serbia-Montenegro) Under the Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: The Attorney General's designation of the Province of Kosovo in the Republic of Serbia in the State of the Federal Republic of Yugoslavia (Serbia-Montenegro) (the ''Kosovo Province'') under the Temporary Protected Status (TPS) program expires on June 8, 2000. After reviewing county conditions and consulting with the appropriate Government agencies, the Attorney General has determined that conditions in the Kosovo Province no longer qualify for TPS designation. However, because this determination was not made at least 60 days before the expiration date, the designation of the Kosovo Province for TPS is automatically extended for a period of 6 months, until December 8, 2000. The termination of the TPS designation of the Kosovo Province will therefore take effect on December 8, 2000. After that date, aliens who are nationals of the Kosovo Province (and aliens having no nationality who last habitually resided in the Kosovo Province) who have had TPS under the Kosovo Province designation will no longer possess such status. This notice contains information regarding the 6-month extension and subsequent termination of the TPS designation for the Kosovo Province.

DATES: The termination of the TPS designation for the Kosovo Province is extended until December 8, 2000. On December 8, 2000, the TPS designation for the Kosovo Province will be terminated.

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

SUPPLEMENTARY INFORMATION:

What Is the Statutory Authority for the Designation and Termination of TPS?

Under section 244 of the Immigration and Nationality Act (Act), 8 U.S.C. 1254a, the Attorney General is authorized to designate a foreign state (or past of a state) for TPS. The Attorney General may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state). Section 244(b)(3)(A) of the Act requires the Attorney General to review, at least 60 days before the end of the period of TPS designation, the conditions in a foreign state designated under section 244(b)(1) of the Act. 8 U.S.C. 1254a(b)(3)(A).

Section 244(b)(3) of the Act further requires the Attorney General to determine whether the conditions for such a designation continue to be met and to terminate the state's designation when the Attorney General determines the conditions are no longer met. 8 U.S.C. 1254a(b)(3)(B). The Attorney General must then publish a notice of termination in the **Federal Register.** If the Attorney General fails to make the determination required by section 244(b)(3)(A) of the Act at least 60 days before the end of the period of designation, then the designation is automatically extended for an additional period of 6 months. 8 U.S.C. 1254a(b)(3)(C).

Why Did the Attorney General Decide To Terminate TPS for the Kosovo Province?

On June 8, 1999, the Attorney General published a notice redesignating the Kosovo Province for TPS for a period of 1 year, based upon conditions in the Kosovo Province at that time. 64 FR 30542 (June 8, 1999). That TPS designation is scheduled to expire on June 8, 2000.

Based upon a more recent review of conditions within the Kosovo Province by the Departments of Justice and State, the Attorney General finds that conditions in the Kosovo Province no longer support a TPS designation. A Department of State memorandum concerning the Kosovo Province states that ''[a]lthough conditions remain difficult with bursts of ethnically-motivated violence, the situation in Kosovo cannot now be classified as ′ongoing internal conflict.′ Outright fighting ended in June 1999 with the withdrawal of the Yugoslav army.'' The memorandum also states that ''[t]he United Nations High Commissioner for Refugees has determined that Kosovar Albanians, who constitute the majority of the Kosovo population, can now return to Kosovo in safety to all areas of Kosovo except the Serb-dominated Mitrovica and certain areas in Eastern Kosovo. In addition, the vast majority of those who fled Kosovo during the conflict returned during the summer and fall of 1999, shortly after the end of the international military presence (KFOR).''

Based on these findings, the Attorney General has decided to terminate the designation of the Kosovo Province for TPS. However, because the Attorney General did not make this determination at least 60 days before the end of the current designation, the designation is automatically extended pursuant to section 244(b)(3)(A) of the Act for an additional 6 months. The termination will therefore take effect at the end of the 6-month extension.

If I Currently Have TPS, How Do I Register for the 6-Month Extension?

Persons previously granted TPS under the Kosovo Province program may apply for the 6-month extension by filing the Form I–821, Application for Temporary Protected Status, without the fee, during the re-registration period that begins May 23, 2000 and ends June 22, 2000. Additionally, those applying must file the Form I–765, Application for Employment Authorization. See the chart below to determine whether or not you must submit the $100 filing fee with the Form I–765.

If	Then
You are applying for employment authorization through December 8, 2000.	You must complete and file the Form I–765, Application for Employment Authorization, with the $100 fee.
You already have employment authorization or do not require employment authorization.	You must complete and file the Form I–765 with no fee.
You are applying for employment authorization and are requesting a fee waiver.	You must complete and file the Form I–765 and a fee waiver request and requisite affidavit (and any other information) in accordance with 8 CFR 244.20.

To re-register for TPS, you must also include two identification photographs (1½″ x 1½″).

Is Late Initial Registration Possible?

Yes, in addition to timely re-registration, late initial registration is possible for some persons from the Kosovo Province under 8 CFR 244.2(f)(2).

What Are the Requirements for Late Initial Registration?

To apply for late initial registration an applicant must:

- Be a national of the Kosovo Province (or a person who has no nationality and who last habitually resided in the Kosovo Province);
- Have been continuously physically present in the United States since June 8, 1999;
- Have continuously resided in the United States since June 8, 1999; and
- Be admissible as an immigrant, except as otherwise provided under section 244(c)(2)(A) of the Act.
- Additionally, the applicant for late initial registration must be able to demonstrate that, during the initial registration period, he or she:
- Was a nonimmigrant, or was granted voluntary departure or any relief from removal;
- Had an application for change of status, adjustment of status, or any relief from removal pending or subject to further review; or
- Was a parolee or had a pending request for reparole; or
- That the applicant is currently the spouse or child of an alien currently eligible to be a TPS registrant.

An applicant for late initial registration must register no later than 60 days from the expiration or termination of the qualifying condition. 8 CFR 244.2(g).

Where Should I File for an Extension of TPS?

You may register for the extension of TPS by submitting an application and accompanying materials to the Immigration and Naturalization Service's local office that has jurisdiction over your place of residence.

When Can I File for an Extension of TPS?

The 30-day re-registration period begins May 23, 2000, and will remain in effect until June 22, 2000.

What Can I Do If I Feel That My Return to the Kosovo Province Is Unsafe?

There may be other avenues of immigration relief available to aliens who are nationals of the Kosovo Province (and aliens having no nationality who last habitually resided in the Kosovo Province) in the United States who believe that their particular circumstances make return to the Kosovo Province unsafe. Such avenues may include, but are not limited to, asylum or withholding of removal.

How Does the Termination of TPS Affect Former TPS Beneficiaries?

After the designation of the Kosovo Province for TPS is terminated on December 8, 2000, those aliens who are nationals of the Kosovo Province (and aliens having no nationality who last habitually resided in the Kosovo Province) will revert back to the immigration status they had prior to TPS, unless they have been granted another immigration status. The stay of removal and eligibility for employment authorization due to the designation of the Kosovo Province under the TPS program will no longer be available. However, the termination of the TPS designation for the Kosovo Province will not affect any pending applications for other forms of immigration relief.

Those persons who received TPS under the Kosovo Province designation may being accruing periods of unlawful presence as of December 8, 2000, if they have not been granted any other immigration benefit or have no application for such a benefit pending. Aliens who accrue certain periods of unlawful presence in the United States may be barred from admission to the United States under section 212(a)(9)(B)(i) of the Act. See 8 U.S.C. 1182(a)(9)(B)(i).

Notice of 6-Month Extension and Termination of Designation of Kosovo Province Under the TPS Program

By the authority vested in me as Attorney General under section 244(b)(3) of the Act, I have consulted with the appropriate agencies of Government concerning conflict and security conditions in the Kosovo Province. 8 U.S.C. 1254a(b)(3). Based on these consultations, I have determined that the Kosovo Province no longer meets the conditions for designation of TPS under section 244(b)(1) of the Act. See 8 U.S.C. 1254a(b)(1).

Since June 10, 1999, when Serb forces withdrew from northern Kosovo and the North Atlantic Treaty Organization suspended its airstrikes, the Kosovo Province has been relatively peaceful, with the exception of occasional isolated outbreaks of violence. An international police force has assumed law enforcement duties and began recruiting Kosovars for local police forces.

I also understand that, although the Kosovo Province is still rebuilding from the war, the return of persons to the Kosovo Province would not result in a danger to their personal safety. The United Nations (UN) is planning to phase out its relief efforts and begin concentrating on rebuilding housing by mid-year. The UN also plans to end its emergency shelter program. Since summer 1999, nearly 90 percent of the over 850,000 ethnic Albanians who fled the Kosovo Province have returned, including over 3,000 from the United States. In view of the recommendations of the Departments of Justice and State for termination, I terminate the designation of the Kosovo Province under the TPS program. However, because I did not make this determination at least 60 days before the expiration of the designation, the designation is automatically extended for 6 months, until December 8, 2000.

Accordingly, I order as follows:

(1) The designation of the Kosovo Province for TPS under section 244(b)(1) of the Act is terminated effective December 8, 2000.

(2) I estimate that there are no more than 1,000 nationals of the Kosovo Province (and aliens having no nationality who last habitually resided in the Kosovo Province) who have been previously granted TPS.

(3) Information concerning the termination of the TPS program for nationals of the Kosovo Province (and aliens having no nationality who last habitually resided in the Kosovo Province) will be available at local Immigration and Naturalization Service (INS) offices upon publication of this notice or at the INS website, http://www.ins.usdoj.gov.

Dated: May 16, 2000.

Janet Reno,

Attorney General.

[FR Doc. 00–12856 Filed 5–22–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Bureau of Prisons

Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) for development of a medium-security or high-security federal correctional facility in Fresno County, California.

AGENCY: Bureau of Prisons, Department of Justice.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY

Proposed Action

The mission of the United States Department of Justice, Federal Bureau of Prisons (Bureau) is to protect society by confining offenders in the controlled environments of prison and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens. The Bureau accomplishes its mission through the appropriate use of community correction, detention, and correctional facilities that are either: Federally-owned and operated; Federally-owned and non-Federally operated; and non-Federally owned and operated.

The Bureau is facing a period of unprecedented growth in its inmate population. Projections show the federal inmate population increasing from approximately 120,000 inmates to 205,000 inmates by 2007. As such, the demand for bedspace within the federal prison system will continue to grow at a significant rate. To accommodate a portion of the growing inmate population, the Bureau has determined that an additional medium-security Federal Correctional Institution (FCI) or a high-security United States Penitentiary (USP) is needed in its system. Therefore, the Bureau is proposing to build and operate a medium-security FCI or high-security USP, with an adjacent minimum-security satellite camp, in Fresno County, California. The main medium-security facility would provide habitation for approximately 1,200 inmates, and a high-security USP would provide habitation for approximately 1,000 inmates. An additional 150–300 inmates will be housed (at the USP or FCI) in an adjacent minimum-security satellite camp.

Several sites in Fresno County, California have been offered to the Bureau for consideration in developing a medium-security FCI or high-security USP and satellite camp. The Bureau has preliminarily evaluated these sites and determined that the prospective sites appear to be of sufficient size to provide space for housing, programs, administrative services and other support facilities associated with the correctional facility. The DEIS to be prepared by the Bureau will analyze the potential impacts of correctional facility construction and operation at these sites.

The Process

In the process of evaluating the sites, several aspects will receive detailed examination including, but are not limited to: topography, geology/soils, hydrology, biological resources, utility services, transportation services, cultural resources, land uses, socio-economics, hazardous materials, air and noise quality, among others.

Alternatives

In developing the DEIS, the options of ''no action'' and ''alternative sites'' for the proposed facility will be fully and thoroughly examined.

Scoping Process

During the preparation of the DEIS, there will be opportunities for public involvement in order to determine the issues to be examined. A public Scoping Meeting will be held at 7:00 p.m., Tuesday, June 13, 2000 at the Victor P. Lopez Rural Development Job Training Center located at 1705 Archor Avenue, Orange Cove, California. There will also be a public Scoping Meeting held at 7:00 p.m., Wednesday, June 14, 2000, at the Mendota High School, located at 1200 Belmont Avenue in Mendota, California. The meeting locations, date, and time will be well publicized and has been arranged to allow for the public as well as interested agencies and organizations to attend. The meetings are being held to allow interested persons to formally express their views on the scope and significant issues to be studied as part of the DEIS process. The Scoping Meeting is being held to provide for timely public comments and understanding of federal plans and programs with possible environmental consequences as required by the National Environmental Policy Act of 1969, as amended, and the National Historic Preservation Act of 1966, as amended. In addition, public information meetings will continue to be held in Fresno County by representatives of the Bureau with interested citizens, elected officials, and community leaders.

DEIS Preparation

Public notice will be given concerning the availability of the DEIS for public review and comment.

Addresses:

Questions concerning the proposed action and the DEIS may be directed to: David J. Dorworth, Chief, Site Selection and Environmental Review Branch, Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20534, Telephone (202) 514–6470, Telefacsimile (202) 616–6024, E-Mail: siteselection@bop.gov.

Dated: May 17, 2000.

David J. Dorworth, Chief,

Site Selection and Environmental Review Branch.

[FR Doc. 00–12869 Filed 5–22–00; 8:45 am]

BILLING CODE 4410–05–U

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: June 15, 2000, 10 am, U.S. Department of Labor, N–3437 C&D, 200 Constitution Ave., NW, Washington, D.C. 20210.

Purpose: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to 19 U.S.C. 2155(f) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

FOR FURTHER INFORMATION CONTACT: Jorge Perez-Lopez, Director, Office of International Economic Affairs, Phone: (202) 219–7597.

Signed at Washington, DC this 15th day of May 2000.

Andrew James Samet,

Deputy Under Secretary, International Affairs.

[FR Doc. 00–12937 Filed 5–22–00; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act: Indian and Native American Programs Under Section 166

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed data collection.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation process to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This process helps to ensure that requested data can be provided in the desired format, reporting burdens are minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration (ETA), in consultation with the Native American Employment and Training Council, is soliciting comments concerning the proposed institution of a ''reporting and performance standards system for Indian and Native American programs under title I, section 166 of the Workforce Investment Act (WIA)''. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 24, 2000.

ADDRESSES: James C. DeLuca, Chief, Division of Indian and Native American Programs, Employment and Training Administration, U.S. Department of Labor, Room N–4641, 200 Constitution Avenue, NW, Washington, DC 20210. Telephone: (202) 219–8502 ext 119(VOICE) or (202) 219–6338(FAX) (these are not toll-free numbers) or INTERNET: jdeluca@doleta.gov.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection request are available for inspection in the Division of Indian and Native American Programs at the above address, and will be mailed to persons who request copies in writing from James C. DeLuca at the above address.

SUPPLEMENTARY INFORMATION:

I. Background

The Employment and Training Administration of the Department of Labor, in consultation with the Native American Employment and Training Council, is requesting approval of a new reporting and performance standards system for Workforce Investment Act (WIA) title I, section 166 Indian and Native American grantees for three program years (July 1, 2000 to June 30, 2003). In evaluating the last several years' reporting experience of the grantees who receive funding under JTPA section 401, including title II–B Summer Youth funds, and in light of the statutory requirements of WIA applicable to section 166 grantees, the Department has developed the following recommended reporting requirements which it believes supports the statutory requirements under WIA as they relate to the Indian and Native American Program.

II. Desired Focus of Comments

The Department of Labor 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 burden estimate for 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Action

This proposed ICR will be used by approximately 150 Workforce Investment Act (WIA) section 166 grantees as the primary reporting and performance measurement vehicle for enrolled individuals, their characteristics, training and services provided, outcomes, including job placement and employability enhancements, as well as detailed financial data on program expenditures. Grantees participating in the demonstration under Public Law 102–477 will not be affected by this collection, and have not been included in the following burden estimates.

Type of Review: New.

Agency: Employment and Training Administration.

Title: Reporting and performance system for WIA title I, section 166 Indian and Native American grantees.

OMB Number: 1205–0NEW.

Catalog of Federal Domestic Assistance Number: 17.251 (this would replace similar Indian and Native American employment and training activities conducted under section 401 of the Job Training Partnership Act)

Record Keeping: Grantees shall retain supporting and other documents necessary for the compilation and submission of the subject reports for three years after submission of the final financial report for the grant in question [29 CFR 97.42 and/or 29 CFR 95.53].

Affected Public: Federally-recognized Indian tribes, bands, and groups; Alaska Native entities; Hawaiian Native entities; private non-profit Indian-controlled organizations; State Indian Commissions or Councils (Native American-controlled); consortia of any and/or all of the above.

Cite/Reference/Form/etc.: The collection instrument is the Indian and Native American Reporting and Performance System and related instructions. OMB-approved forms are provided for use in gathering information at the grantee field office level.

Total Respondents: 150.

Frequency: Quarterly for financial information; Semi-annually and annually for participation and characteristics information (for both the Comprehensive and Supplemental Youth Services programs).

Total Responses: 900 [For the Comprehensive Services program] (150 times 2, plus 150 times 4—possibly more) There are four statutorily-required quarterly financial status reports per grantee per year, by year of appropriation. For participation and characteristics information, there is one semi-annual and one annual submission per year, regardless of the year(s) of funding expended during the program year. There is only one format for the participation and characteristics report.

Total Responses: 690 [For the Supplemental Youth Services program] (115 recipients of Supplemental Youth Services funds times 2, 115 times four—possibly more). There are four statutorily-required quarterly financial status reports per grantee per year, by year of appropriation. For participation and characteristics information, there is one semi-annual and one annual submission per year, regardless of the year(s) of funding expended during the program year. There is only one format for the participation and characteristics report.

Average Time per Response: Financial Status Report (FSR)—7.75 hours; [ETA 9083] Participation and Characteristics Report (PCR) for the Comprehensive Services Program—9.67 hours; [ETA 9084] Participation and Characteristics Report (PCR) for the Supplemental Youth Services Program—9.67 hours [ETA 9085] The individual time per

response varies widely depending on the degree of automation attained by individual grantees. Grantees also vary according to the numbers of individuals served in each program year. If the grantee has a fully-developed and automated MIS, the response time is limited to one-time programming plus processing time for each response. It is the Department's desire to see as many WIA section 166 grantees as possible become computerized, so that response time for reporting will eventually sift down to an irreducible minimum with an absolute minimum of human intervention.

Estimated Total Burden Hours: 13,340 (minimum)—1,590 total responses. (FSR: 1,060 responses times 7.75 hours = 8,215 burden hours). (PCR: 530 responses times 9.67 hours = 5,125 burden hours). The total of these two estimates yields a total estimate of at least 13,340 total burden hours per response cycle (one program year). The use of the term ''minimum'' refers to the fact that an individual grantee must continue to report on expenditures by year of appropriation until those funds are completely expended, or ''zeroed out''. Thus, if more that one year's appropriation is expended in a given quarter, two (or more) FSRs must be submitted for that period, corresponding to the fund source(s) utilized.

Total Burden Cost (capital/startup): $-0-.

Total Burden Cost (operating/maintaining): $200,100 (13,340 total hours per response cycle times an estimated average wage of $15.00 per grantee staff hour). As noted, these costs will vary widely among grantees, from nearly no additional cost to some higher figure, depending on the state of automation attained by each grantee and the wages paid to the staff actually completing the various forms. All costs associated with the submission of these forms are allowable grant expenses.

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

Signed at Washington, DC, this 17th day of May, 2000.

Thomas M. Dowd,

Acting Director, Office of National Programs.

[FR Doc. 00–12936 Filed 5–22–00; 8:45 am]

BILLING CODE 4510–30–U

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10624, et al.]

Proposed Exemptions; The Banc Funds Company, LLC (TBFC)

AGENCY: Pension and Welfare Benefits Administration, Labor

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. Attention: Application No. ____, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5638, 200 Constitution Avenue, NW, Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

The Banc Funds Company, LLC (TBFC), Located in Chicago, IL

[Application No. D–10624]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990.) [1]

Section I. Covered Transactions

If the exemption is granted, the restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to (1) the purchase or redemption of interests in the Banc Fund V, L.P. (the Partnership) by employee benefit plans (the Plans) investing in the Banc Fund V Group Trust (the BF V Group Trust), where TBFC, a party in interest with respect to the Plans, is the general partner of MidBanc V, L.P. (MidBanc V), which is, in turn, the general partner (the General Partner) of the Partnership; (2) the sale,

[1] For purposes of this proposed exemption, references to the provisions of Title I of the Act, unless otherwise specified, refer also to corresponding provisions of the Code.

for cash or other consideration, by the Partnership of certain securities that are held as Partnership assets to a party in interest with respect to a Plan participating in the Partnership through the BF V Group Trust, where the party in interest proposes to acquire or merge with the portfolio company (the Portfolio Company) that issued such securities; and (3) the payment to the General Partner, by Plans participating in the Partnership through the BF V Group Trust, of an incentive fee (the Performance Fee) which is intended to reward the General Partner for the superior performance of investments in the Partnership.

This proposed exemption is subject to the following conditions as set forth below in Section II.

Section II. General Conditions

(a) Prior to a Plan's investment in the BF V Group Trust and the Partnership, a Plan fiduciary which is independent of TBFC and its affiliates (the Independent Fiduciary) approves such investments on behalf of the Plan.

(b) Each Plan investing in the BF V Group Trust and the Partnership has total assets that are in excess of $50 million.

(c) No Plan may invest more than 10 percent of its assets in the BF V Group Trust, and the interests held by the Plan may not exceed 25 percent of the assets of the BF V Group Trust.

(d) No Plan may invest more than 25 percent of its assets in investment vehicles (*i.e.,* collective investment funds or separate accounts) managed or sponsored by TBFC and/or its affiliates.

(e) Prior to investing in the BF V Group Trust and the Partnership, each Independent Fiduciary contemplating investing therein receives a Private Placement Memorandum and its supplement containing descriptions of all material facts concerning the purpose, structure and the operation of the BF V Group Trust and the Partnership.

(f) An Independent Fiduciary which expresses further interest in the BF V Group Trust and Partnership receives —

(1) A copy of the BF V Group Trust Agreement outlining the organizational principles, investment objectives and administration of the BF V Group Trust, the manner in which shares in the Group Trust may be redeemed, the duties of the parties retained to administer the BF V Group Trust and the manner in which BF V Group Trust shares are to be valued; and

(2) A copy of the Partnership Agreement describing the organizational principles, investment objective and administration of the Partnership, the manner in which the Partnership interests may be redeemed, the manner in which Partnership assets are to be valued, the duties and responsibilities of the General Partner, the rate of remuneration of the General Partner, and the conditions under which the General Partner may be removed.

(g) If accepted as an investor in the BF V Group Trust and the Partnership, the Independent Fiduciary is—

(1) Furnished with the names and addresses of all other participating Plan and non-Plan investors in the Partnership;

(2) Required to acknowledge, in writing, prior to purchasing a beneficial interest in the BF V Group Trust (and a corresponding limited partnership interest in the Partnership) that such Independent Fiduciary has received copies of such documents; and

(3) Required to acknowledge, in writing, to the General Partner that such fiduciary is independent of TBFC and its affiliates, capable of making an independent decision regarding the investment of Plan assets, knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and able to make an informed decision concerning participation in the BF V Group Trust and the Partnership.

(h) Each Plan, including the trustee (the Trustee) of the BF V Group Trust, receives the following written disclosures from the General Partner with respect to its ongoing participation in the BF V Group Trust and the Partnership:

(1) Within 90 days after the end of each fiscal year of the BF V Group Trust as well as at the time of termination, an annual financial report containing a balance sheet for the BF V Group Trust and the Partnership as of the end of such fiscal year and a statement of changes in the financial position for the fiscal year, as audited and reported upon by independent, certified public accountants. The annual reports will also disclose the remuneration that has accrued or is paid to the General Partner.

(2) Within 60 days after the end of each quarter (except in the last quarter) of each fiscal year of the Partnership and the BF V Group Trust, an unaudited quarterly financial report consisting of at least a balance sheet for the Partnership and the BF V Group Trust as of the end of such quarter and a profit and loss statement for such quarter. The quarterly report will also specify the remuneration that is actually paid or accrued to the General Partner.

(3) Such other written information as may be needed by the Plans (including copies of the proposed exemption and grant notice describing the exemptive relief provided herein).

(i) At least annually, the General Partner will hold a meeting of the Partnership, at which time, the Independent Fiduciaries of the participating Plans will have the opportunity to decide on whether the Partnership, the BF V Group Trust, the Trustee or the General Partner should be terminated as well discuss any aspect of the Partnership, the BF V Group Trust and the agreements promulgated thereunder with the General Partner.

(j) During each year of the BF V Group Trust and the Partnership, representatives of the General Partner will be available to confer by telephone or in person with independent Plan fiduciaries to discuss matters concerning the BF V Group Trust or the Partnership.

(k) The terms of all transactions that are entered into on behalf of the Partnership remain at least as favorable to a Plan investing in the BF V Group Trust as those obtainable in arm's length transactions with unrelated parties. In this regard, the valuation of assets in the Partnership that is done in connection with the distribution of any part of the General Partner's Performance Fee will be based upon independent market quotations or (where the same are unavailable) determinations made by an independent appraiser (the Independent Appraiser).

(l) In the case of the sale by the Partnership of Portfolio Company securities to a party in interest with respect to a participating Plan that occurs in connection with the acquisition of a Portfolio Company represented in the Partnership's portfolio (the Portfolio), the party in interest may not be the General Partner, TBFC, any employer of a participating Plan, or any affiliated thereof, and the Partnership receives the same terms as is offered to other shareholders of a Portfolio Company.

(m) As to each Plan, the total fees paid to the General Partner and its affiliates constitute no more than ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(n) Any increase in the General Partner's Performance Fee is based upon a predetermined percentage of net realized gains minus net unrealized losses determined annually between the date the first contribution is made to the Partnership until the time the Partnership disposes of its last investment. In this regard—

(1) Except as provided below in Section II(o), no part of the General Partner's Performance Fee may be

withdrawn before December 31, 2006, which represents the end of the Acquisition Phase (the Acquisition Phase) for the Partnership, and not until the BF V Group Trust has received distributions equal to 100 percent of its capital contributions made to the Partnership.

(2) Prior to the termination of the Partnership, no more than 75 percent of the Performance Fee credited to the General Partner may be withdrawn by the Partnership.

(3) The debit account established for the General Partner to calculate the Performance Fee (the Performance Fee Account) is credited annually with a predetermined percentage of net realized gains minus net unrealized losses, minus Performance Fee distributions.

(4) No portion of the Performance Fee may be withdrawn if the Performance Fee Account is in a deficit position.

(5) The General Partner repays all deficits in its Performance Fee Account and it maintains a 25 percent cushion in such account prior to receiving any further distribution.

(o) During the Acquisition Phase of the Partnership only,

(1) The General Partner is entitled to take distributions with respect to the Performance Fee in the amount of any income tax liability it or its affiliates become subject to with respect to net capital gains of the Partnership, provided such gains are based upon the sale of Portfolio Company securities that is initiated by a third party in connection with a merger, tender offer or acquisition, and does not involve the exercise of discretion by the General Partner.

(2) The tax distributions are deducted from the Performance Fee.

(3) The General Partner repays to the Partnership any tax refund received to the extent a distribution has been made to such General Partner.

(4) The General Partner provides the Trustee and the Plans with an annual report and accounting of all distributions and repayments attributable to income taxation of the General Partner and its affiliates, including written evidence that the distributions have been utilized exclusively to pay the income tax liability.

(p) The General Partner maintains, for a period of six years, the records necessary to enable the persons described in paragraph (q) of this Section II to determine whether the conditions of this exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the General Partner, the records are lost or destroyed prior to the end of the six year period; and

(2) No party in interest other than the General Partner shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (q) below.

(q)(1) Except as provided in section (q)(2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (p) of this Section II shall be unconditionally available at their customary location during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service (the Service);

(B) Any Independent Fiduciary of a participating Plan or any duly authorized representative of such Independent Fiduciary;

(C) Any contributing employer to any participating Plan or any duly authorized employee representative of such employer; and

(D) Any participant or beneficiary of any participating Plan, or any duly authorized representative of such participant or beneficiary.

(2) None of the persons described above in subparagraphs (B)–(D) of this paragraph shall be authorized to examine the trade secrets of the General Partner or TBFC or commercial or financial information which is privileged or confidential.

Section III. Definitions

For purposes of this proposed exemption,

(a) The term ''TBFC'' means The Banc Funds Company and any affiliate of TBFC as defined in paragraph (b) of Section III.

(b) An ''affiliate'' of TBFC includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with TBFC.

(2) Any officer, director or partner in such person, and

(3) Any corporation or partnership of which such person is an officer, director or a 5 percent partner or owner.

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) An ''Independent Fiduciary'' is a Plan fiduciary which is independent of TBFC and its affiliates and is either a Plan administrator, trustee, named fiduciary, as the recordholder of beneficial Interests in the BF V Group Trust or an investment manager.

(e) The term ''Portfolio Companies'' include commercial banks and other depository institutions such as savings banks, savings and loan associations, holding companies controlling those entities (together, the Bank Companies), and companies providing financial services in the United States, which include, but are not limited to, consumer finance companies and demutualizing life insurance companies (together, the Financial Services Companies).

(f) The term ''net realized gains'' refers to the excess of realized gains over realized losses.

(g) The term ''net realized losses'' refers to the excess of realized losses over realized gains.

(h) The term ''net unrealized losses'' refer to the excess of unrealized losses over unrealized gains.

(i) The term ''net unrealized gains'' refers to the excess of unrealized gains over unrealized losses. For a gain or loss to be ''realized,'' an asset of the Partnership must be sold for more than or less than its acquisition price. For a gain or loss to be ''unrealized,'' the Partnership asset must increase or decrease in value but not be sold.

Preamble

On September 22, 1993, the Department granted PTE 93–63 (58 FR 49322), a temporary exemption which is effective for a period of eight years from the date of the grant. PTE 93–63 permits a series of transactions relating to the (a) sale by the Bank Fund III Group Trust (the BF III Group Trust) in which Plans invest, of certain securities which have been issued by Bank Companies and are held in the BF III Group Trust's portfolio, to a party in interest with respect to a Plan, where the party in interest proposes to acquire or merge with the Bank Company that issued such securities. In addition, PTE 93–63 permits the BF III Group Trust to purchase Bank Company securities from the Midwest Bank Fund I Limited Partnership (MBF I LP) and the Midwest Bank Fund II, Limited Partnership (MBF II LP), two entities organized by The Chicago Corporation (TCC), the company from which TBFC was spun off. Further, PTE 93–63, allows Plans investing in the BF III Group Trust to pay a performance fee to TCC.

On March 5, 1997, the Department granted PTE 97–15 at 62 FR 10078. PTE 97–15 permits Midwest Banc Fund IV Group Trust (the BF IV Group Trust) in

which Plans invest, to sell certain securities that are held in the BF IV Group Trust Portfolio to a party in interest with respect to a participating Plan, where the party in interest proposes to acquire or merge with a bank company or a financial services company. In addition, PTE 97–15 permits TCC to receive a Performance Fee from Plans investing in the BF IV Group Trust.[2]

The pooled investment vehicle that is described herein is similar to four investment funds that were organized by TCC in 1986, 1989, 1993 and 1996 and described in PTEs 93–63 and 97–17. These four vehicles have been operated by TCC, and since April 30, 1997, the date TBFC was spun-off from TCC, by TBFC.

Summary of Facts and Representations

1. TBFC is a Chicago, Illinois-based investment advisory firm founded in 1997 as a spin-off from, and by the individuals who managed the financial services company advisory division of TCC.[3] TBFC is a registered investment adviser under the Investment Advisers Act of 1940, as amended, and it has a single line of business. TBFC currently provides institutional investors with investment management services through BF III and BF IV and it acts as a fiduciary with respect to these clients. TBFC currently manages $81 million in assets of plans that are covered under the Act, $129 million in the assets of governmental plans and $65 million in non-Plan assets.

TBFC's relevant specialty is its expertise in the banking industry. In this regard, TBFC employees provide management, investment and capital formation services to collective investment vehicles which invest in commercial banks and other financial institutions and expend significant resources to research specific financial institutions.

As described below, TBFC requests an administrative exemption from the Department with respect to the purchase or redemption of interests in the Partnership by Plans investing in the BF V Group Trust, where TBFC, a party in interest with respect to such Plans, is the general partner of MidBanc V, which is, in turn, the General Partner of the Partnership. In addition, TBFC requests exemptive relief to permit the sale, for cash or other consideration, by the Partnership of certain securities that are held as Partnership assets to a party in interest with respect to a Plan participating in the Partnership through the BF V Group Trust, where the party in interest proposes to acquire or merge with the Portfolio Company that issued such securities. Further, TBFC requests that the exemption apply to the General Partner's receipt of a Performance Fee from the Partnership that is based upon a debit account structure (*i.e.,* the Performance Fee Account) which will keep track of the General Partner's compensation for managing the Partnership but will not represent actual dollars that are reserved or set aside for the General Partner.

The BF V Group Trust is intended to be a ''pooled fund'' as that term is defined in 29 CFR 2570.31(g) and a ''group trust'' as that term is defined in Rev. Rul. 81–100, 1981–1 C.B. 326. All investors that are beneficiaries of the BF V Group Trust must evidence the following characteristics in order to acquire beneficial interests: (a) Each investor must commit to making at least $1 million in initial capital contributions; (b) each investor must be a Plan; (c) each Plan must have at least $50 million in assets; (d) each Plan must agree to incorporate the terms of the Group Trust Agreement into its own trust agreement; (e) no Plan may invest more than 10 percent of its assets in interests in the BF V Group Trust and such interests held by a Plan may not exceed 25 percent of the BF V Group Trust; and (f) no Plan may subscribe for beneficial interests which, when aggregated with all other Plan assets that are subject to investment funds or separate accounts managed by TBFC and/or its affiliates, is valued in excess of 25 percent of such Plan's net assets. The BF V Group Trust will not be organized unless $25 million in capital contribution commitments are subscribed for by investors in such Group Trust and the Partnership described below.

3. The trustee (the Trustee) of the BF V Group Trust will be Citibank, F.S.B. Although TBFC may have and may have had business relationships with the Trustee, there will be no control relationship or ownership affiliation between TBFC and the Trustee. The Trustee will be responsible for monitoring the Trust's investment in the Partnership and for policing TBFC's adherence to the provisions of the Partnership Agreement. In addition, the Trustee will serve as custodian for the Partnership.

For services rendered, the Partnership will pay the Trustee (a) an annual base fee of $1,500; (b) a custodial fee based upon the market value of the Partnership at the beginning of each quarter (*e.g.,* 0.02 percent annually of the first $100 million, 0.01 percent annually of any amount over $100 million, and 0.005 percent annually of any amount over $200 million); (c) a transaction fee of $12 per purchase or sale and (d) a disbursement fee of $8 per payment of funds. No charges will be levied for income collection, item storage, statement preparation or other transactions.

In accordance with the provisions of the Trust Agreement, the Trustee may be removed by a vote of Plans holding a majority of beneficial interests in the BF V Group Trust, provided such Plans give the Trustee 30 days' advance written notice of their intent to terminate the Trustee. The Trustee may resign at any time by giving 30 days prior written notice to TBFC for transmittal to the Plans.

4. Approximately 5–10 Plans may invest in the BF V Group Trust. However, no Plan may invest more than 25 percent of its assets in the BF V Group Trust and every other pooled investment vehicle sponsored by TBFC, as measured on the date of such investment.[4] Each Participating Plan must invest a minimum of $1 million in the BF V Group Trust. Further, no Plan benefitting employees of TBFC or the Trustee will be permitted to invest in the BF V Group Trust.[5]

[2] In 1986, TCC organized the MBF I LP. The general partners of MBF I LP were two partnerships (MidBanc I and MidBanc II), whose general partners were corporate affiliates of TCC and whose limited partners were members of TCC's staff. Less than 25 percent of the assets of MBF I LP were provided by Plans. On December 31, 1994, MBF I LP was liquidated.

In 1989, TCC organized the MBF II LP. This partnership had the same general partners as MBF I LP. Also, less than 25 percent of the assets of MBF II LP were provided by Plans. On December 31, 1997, MBF II LP was liquidated.

Finally, in 1993, TCC completed the organization of BF III which was structured as both a limited partnership (the BF III Partnership) and a group trust (the BF III Group Trust).

In 1996, TCC organized BF IV as a limited partnership (the BF IV Limited Partnership) and as a group trust (the BF IV Group Trust). Each entity has or had investment policies and strategies similar to the proposed investment vehicle (*i.e.,* the Partnership).

[3] During 1997, TCC's parent was acquired by ABN AMRO North America, Inc., a subsidiary of ABN AMRO Bank N.V., a global bank headquartered in the Netherlands. The acquisition did not involve the purchase of the assets of TCC's parent and TCC retains its separate corporate identity.

[4] The Department is not proposing, nor is TBFC requesting, exemptive relief for the purchase and sale of beneficial interests in the BF V Group Trust between the investing Plans and the Trustee beyond that provided under section 408(b)(8) of the Act.

[5] Although TBFC and the Trustee will not be affiliated with, or under the control of, or controlling, any participating Plan, it is likely that certain Plans will have a preexisting relationship with TBFC in the form of an investment in MBF I, MBF II, BF III or BF IV, investment vehicles managed by TBFC, and it is possible that a participating Plan may utilize the services of the

Continued

5. Pooled investments for Plans investing in the BF V Group Trust will be made through the Partnership. The maximum capital contribution commitment of the Partnership will be $300 million. The primary purpose of the Partnership is to engage in the business of providing capital to, acquiring equity and debt interests in, and making available consultative services to Portfolio Companies such as Bank Companies and Financial Services Companies having assets under $7 billion. The Partnership may also invest in insurance contracts, short term investments, derivatives (for hedging purposes only) and covered put and call options. Further, the Partnership may make loans of securities. In short, it is anticipated that the Partnership will share the same basic investment strategy as was held by MBF I, MBF II, BF III and BF IV, and in many ways, the operations and fee structures of these entities.[6]

6. The General Partner of the Partnership will be MidBank V, LP. The general partner of MidBank V, LP will be TBFC and individuals employed by TBFC. The General Partner will acquire a one percent interest in the Partnership, for cash. The General Partner will also serve as the Administrator of the BF V Group Trust but it will not receive any fees from such entity. As described later in this proposed exemption, all fees that are paid to the General Partner and/or its affiliates will be paid by the Partnership and not by the BF V Group Trust.

The principal place of business of the Partnership will be 208 LaSalle Street, Chicago, Illinois or at such other location as the General Partner may select. The Partnership is expected to terminate on December 31, 2007, unless terminated sooner.

7. The Limited Partners of the Partnership will generally consist of non-Plan investors, which will acquire, by making capital contributions in cash directly to the Partnership, a Limited Partner's interest in such Partnership. However, as noted above, another Limited Partner in the Partnership will be the BF V Group Trust, the beneficiaries of which will be Plans covered under the provisions of the Act, and governmental plans. These Plans will acquire, for cash, both a beneficial interest in the BF V Group Trust and a Limited Partner's interest in the Partnership. It is expected that upon the creation of this structure, the BF V Group Trust will own 65.6 percent of the equity interests in the Partnership. Because none of the exceptions to the plan asset regulations will apply, the assets of the BF V Group Trust as well as the assets of the Partnership will constitute plan assets.[7]

Neither the General Partner nor the Trustee will have any control over the decision to cause any Plan to invest in the Partnership through the Group Trust. Under these circumstances, the decision to participate in the BF V Group Trust or the Partnership will be made by a Plan fiduciary which is independent of the Trustee and the General Partner. In each instance, even though the Trustee or the General Partner may present a Plan fiduciary with information concerning investment in the Group Trust and in the Partnership, the Plan fiduciary who makes the investment decision will agree not to rely on either the advice of the Trustee or the General Partner as the primary basis for a Plan's investment and the Independent Fiduciary will be specifically required to do so in every instance.[8] The General Partner assumes that a Plan will invest in the BF V Group Trust only if the fiduciaries of the Plan determine that investment performance is anticipated to be superior.[9]

8. The contribution provisions for the BF V Group Trust and the Partnership will be identical. For example, capital calls for Plans participating in the BF V Group Trust will be concurrent and in the same proportional amount as are capital calls by the Partnership from Limited Partners that are not Plans.[10] In pertinent part, the BF V Group Trust Agreement provides that each Plan's commitment to contribute will be divided into 20 equal segments. The General Partner, in its capacity as Administrator of the BF V Group Trust, may call any amount of these installments, upon 10 days' advance written notice, when cash is needed to fund the acquisition of Portfolio Company securities by the Partnership. However, there are two limitations upon the General Partner's power to call contributions. First, no more than 50 percent of the contribution commitment may be called in any twelve month period. Second, the General Partner cannot call any contributions after the sixth anniversary date of the inception of the BF V Group Trust (the period running from the date on which initial capital contributions are made to such sixth anniversary date being referred to as ''the Acquisition Phase'').

If an investing Plan cannot or does not meet a capital call, the Partnership Agreement and the BF V Group Trust Agreement provide that ten days after the investor receives notice of default on a capital call, the General Partner/

Trustee with respect to plan assets other than those invested through the Trust. In this regard, TBFC is not requesting, nor is the Department providing, exemptive relief with respect therefor.

[6] According to TBFC, there are circumstances militating against investments by the Partnership in either BF III or BF IV. First, the Partnership will be structured as a separate investment entity apart from BF III and BF IV. BF III, BF IV and BF V (collectively, the Funds) will all have somewhat different charters with respect to what investments each can make. Second, many companies in which BF III, BF IV and BF V invest are (or will be acquired) by larger banks within three years of the particular Fund making an investment. Therefore, something acquired by an earlier Fund is unlikely to be acquired by a later Fund. Third, the Partnership will not come into existence until BF II and BF IV are fully invested, so concurrent purchases are deemed impossible. Fourth, BF IV may complete its wind-up and termination before the Partnership becomes invested. Fifth, there is an outright prohibition against the Partnership buying investments in BF III and BF IV and also against investing directly in BF III and BF IV. Sixth, the Partnership will invest in an area in which the availability of Portfolio Company securities will be extremely limited. For the Partnership to invest in any of the same investment vehicles as BF III and BF IV, it would mean that none of the investment circumstances described above would apply.

[7] See 29 CFR 2510.3–101(a)(2)(ii) and (f).

[8] The Department notes that the general standards of fiduciary conduct promulgated under the Act would apply to the participation in the BF V Group Trust and the Partnership by an Independent Fiduciary. Section 404 of the Act requires that a fiduciary discharge his duties respecting a plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion. Accordingly, an Independent Fiduciary must act prudently with respect to the decision to invest in the BF V Group Trust and the Partnership. The Department expects that an Independent Fiduciary, prior to investing in the BF V Group Trust and the Partnership, to fully understand all aspects of such investments following disclosure by the General Partner of all relevant information.

[9] The Department is not expressing an opinion on whether the Trustee or the General Partner would be deemed to be fiduciaries under section 3(21)(A)(ii) of the Act with respect to a Plan's investment in the BF V Group Trust or the Partnership. The Department is also not proposing relief for the rendering of investment advice in connection with the acquisition of interests in either BF V Group Trust or the Partnership.

[10] Because of the multi-tiered structure (*i.e.,* investing Plan to BF V Group Trust to Partnership), it is represented that capital calls will be handled as follows:

On the same day, the General Partner will notify the Limited Partners, including Plans investing in the BF V Group Trust that capital is being called. All investors will have 10 days to forward the appropriate amount of cash.

As a matter of practice, all Limited Partners will wire their contributions to the Trustee on the same day (the Trustee will serve as the custodian for the Partnership's assets).

Plan investors' contributions will be credited to a separate Trust account and the non-Plan investors' contributions will be credited to the Partnership's Capital Account.

On the same day, the Trustee transfers the funds from the Trust account to the Partnership's Capital Account.

The General Partner will then instruct the Trustee to utilize the Partnership's Capital Account to acquire the appropriate securities until the Partnership account is exhausted, at which time, another capital call will be made.

Administrator may (a) permit the investor's continued participation in the Partnership (or BF V Group Trust) with a commensurate reduction in both the investor's proportionate interest in such Partnership (or BF V Group Trust) and aggregate size of the Partnership (or BF V Group Trust);[11] (b) declare the investor's entire capital commitment due and pursue collection of the same; or (c) expel, at fair market value, the defaulting investor and offer its interest in the Partnership (or BF V Group Trust) first to the non-defaulting investors and then to non-investors who are qualified to invest in such Partnership (or BF V Group Trust). In making the choice between these alternatives, it is represented that the General Partner/Administrator will be guided by then-current investment strategies and the best interest of the non-defaulting investors.

9. The terms of the Partnership control the duties and authority of the General Partner. For example, the General Partner, at its own expense, will provide the Partnership and the BF V Group Trust with personnel who are able to undertake the investment strategies for these entities as well as perform their clerical, bookkeeping and administrative functions. In addition, the General Partner, at its own expense, will provide the Partnership and the BF V Group Trust with office space, telephones, copying machines, postage and all other necessary items of office services. Further, the General Partner will control proxy voting on all portfolio securities.[12] The Partnership Agreement permits the General Partner to allocate securities transactions to broker-dealers of its choice.

The General Partner will prepare, or cause to be prepared on behalf of the Partnership, the following reports: (a) annual audited financial statements; and (b) quarterly unaudited financial statements. In addition, the General Partner will keep the accounts of the Partnership in its capacity as Administrator of the Trust.[13]

10. Under the Partnership Agreement, two types of fees will be payable to the General Partner by the Partnership. These fees are a management fee (the Management Fee) and the Performance Fee, the components of which are described below.

The General Partner's Management Fee is payable as a percentage of the aggregate capital contributions to the Partnership. The fee will be equal to 5 percent of the first $20 million in capital contributions, 1.74 percent of the next $230 million of capital contributions and 2 percent on amounts in excess of $250 million. On average, the fee will not exceed 2 percent of committed capital when all capital is contributed, even if the Partnership is capitalized at less than $250 million.[14]

Although Limited Partners will receive distributions from the Partnership throughout its duration, if, as a result of distributions to the Limited Partners, paid-in capital contributions are reduced to 50 percent or less of the original aggregate capital contributions to the Partnership after December 31, 2006, the Management Fee will be reduced to 70 percent of the amount otherwise payable, effective for fiscal years subsequent to the year in which said reduction was achieved. Upon the return to the Limited Partners of capital contributions so as to reduce their capital contributions to 25 percent or less of the total capital contributions paid-in, the Management Fee will be reduced to 50 percent of the amount otherwise payable, effective for fiscal years subsequent to the year in which said reduction was achieved.

11. In addition to the Management Fee, the General Partner[15] will be entitled to receive the Performance Fee, which will accrue annually in a debit account (*i.e.,* the Performance Fee Account) between the date the first contribution is made to the Partnership until the time the Partnership disposes of its last investment. As noted above, the Performance Fee Account will provide a mechanism for measuring the General Partner's compensation for managing the Partnership. Such account will be a ''moving'' balance that will reflect the activity of the Partnership instead of actual dollars that are reserved or set aside for the General Partner. Until distributions from the Performance Fee Account are made, funds that the debit account credits represent will be invested for the benefit of the Limited Partners.

The Performance Fee will be paid during the final two years of the Partnership. Simply stated, the Performance Fee will equal 20 percent of the excess of net realized gains minus net unrealized losses of the Partnership, minus allowed distributions determined annually between the date of the first contribution to the Partnership until the disposition of the last Partnership asset.

In addition, the General Partner's Performance Fee will subject to the following terms and conditions:

(a) *Fee Base.* As noted above, the amount credited to the General Partner as the Performance Fee will be equal to a percentage of net realized gains minus net unrealized losses. The fee will be annually credited to the General Partner.[16]

(b) *Reduced Availability.* Prior to the termination of the Partnership, only 75 percent of the General Partner's Performance Fee may be drawn from the Partnership. (This limit will also apply to special income tax draws as described in Representation 13.)

(c) *Limited Deferral/Return of Capital.* Again, with the exception of the General Partner's income tax liabilities that are described in Representation 13,

[11] Reductions in a Limited Partner's participations are based upon the relative amount of capital contributions that are omitted. For example, if a Limited Partner subscribes for a 10 percent interest in the Partnership and neglects to honor 25 percent of its commitment, the Limited Partner will only have a 7.5 percent interest in the Partnership if it is permitted to continue its investment.

[12] The Department is not providing exemptive relief herein for any prohibited transactions that may arise as a result of proxy voting on the part of the General Partner. The Department also notes that the general standards of fiduciary conduct promulgated under the Act would apply to such voting practices.

[13] Some examples of the types of accounts that will be maintained by the Partnership for each Limited Partner are (a) the Capital Account, which reflects the original capital paid into the Partnership by the Limited Partner and any adjustments thereto; (b) the Income Account, to which will be credited income, interest, dividends, fees for services (*i.e.,* consulting services provided by the Partnership to financial institutions) and any other income items (other than gains or losses on the sale or other disposition of securities or other assets and other than income from high yield investments) and to which will be debited any expenses of the Partnership other than those which are to be taken into account to determine gains and losses; and (c) the Gain Account, to which will be credited or debited gains or losses after expenses of sale, when and as realized from the sale or other disposition by the Partnership of securities or other assets, whether or not any such gain or loss is recognized or constitutes long-term or short-term capital gain or loss or ordinary income or loss for Federal income tax purposes.

[14] It is represented that the Management Fee is covered by the statutory exemptive relief available under section 408(b)(2) of the Act. However, the Department expresses no opinion herein on whether the General Partner's receipt of the Management Fee will satisfy the terms and conditions of section 408(b)(2) of the Act.

[15] As briefly alluded to in Representation 1, certain employees of TBFC, generally those who take an active part in the management of the Partnership, are limited partners in MidBanc V, the General Partner of the Partnership. MidBanc V will be entitled to receive the Performance Fee to the extent that it is earned. MidBanc V will then allocate the Performance Fee among TBFC and the employees of TBFC who are limited partners in MidBanc V.

[16] Any payments of the Performance Fee will reflect realized gains inuring to the Partnership. For the Partnership to make a Performance Fee payment to the General Partner, it must sell a Partnership investment for a price exceeding the purchase price for such investment. Therefore, the proceeds of the sale will reflect the source of Performance Fee payments.

After the Partnership has invested its capital, it will have two sources of cash. One is income received from its investments, such as dividends or interest. The other is money received when it sells an investment.

distributions of the Performance Fee cannot be made until January 1, 2007, which is after the completion of the Partnership's Acquisition Phase. Withdrawals with respect to the Performance Fee cannot be paid until investors have received distributions equal to 100 percent of their capital contributions.[17]

(d) *Debits.* The General Partner's Performance Fee Account is debited for the appropriate percentage of realized losses and net unrealized losses and distributions pursuant to the formula. The Performance Fee cannot be drawn when the Performance Fee Account is in a deficit position. Thus, if a gain is realized when the Performance Fee Account is in a deficit position, no Performance Fee can be paid to the General Partner and accrue in the Performance Fee Account. Sufficient gains must be realized to restore the deficit, restore the 25 percent cushion and generate surplus before any part of the Performance Feet can eventually be drawn down.

(e) *Unrealized Gains.* Although net unrealized losses are subtracted from net realized gains before the Performance Fee is calculated, net unrealized gains are excluded from the calculation of the General Partner's Performance Fee. In essence, the exclusion of net unrealized gains serves as an additional reserve ensuring that the General Partner will not be permitted withdrawals based on early gains that are subject to offset by later losses. The exclusion of net unrealized gains and the inclusion of net unrealized losses in the Performance Fee calculation operate to create a moving threshold or hurdle. If the General Partner draws on its Performance Fee Account and the Partnership experiences a later loss, the General Partner cannot take another fee until that loss is made up.

(f) *Distribution Repayment.* The General Partner must prepay any deficit in the Performance Fee Account such that if the Partnership were to terminate at any time, the General Partner would not have received a Performance Fee in excess of that which reflects the Partnership's performance to that date.

12. The following examples illustrate the calculation of the General Partner's Performance Fee. Although the Performance Fee may be drawn annually for the specific purpose of satisfying the General Partner's tax liabilities under certain limited circumstances (see Section II(o) and Representation 13), generally the Performance Fee can only be drawn during 2007 and 2008, the final two years of the Partnership's anticipated term. However, for purposes of illustration, four draw years have been assumed in the examples.

EXAMPLE #1

Year	Cumulative net position	Performance fee account	Maximum draw	Draw or refund
1	$800	$160	$120	$120
2	200	40	30	(90)
3	1,000	200	150	120
4	700	140	105	(45)

Year 1 Assume that when the Performance Fee first becomes drawable in 2007 the Partnership's Cumulative Net Position is $800. The General Partner's Performance Fee is 20% of $200 or $160. The General Partner may draw 75% of the $160 or $120.[18]

Year 2 The Partnership's Cumulative Net Position at the end of Year 2 is $200. The General Partner's Performance Fee is 20% of $200 or $40. The General Partner is entitled to draw $30, but since it has previously drawn $120, it must refund $90.

Year 3 The Partnership now has a Cumulative Net Position of $1,000. The General Partner's Performance Fee is $200 with a permitted draw of $150. Because the General Partner has previously drawn a net amount of $30 at the end of Year 2 (*i.e.,* $120 − $90), it may now draw an additional $120.

Year 4 The Partnership's Cumulative Net Position falls to $700 and the General Partner's Performance Fee falls to $140. The 75% draw equals $105, but the General Partner has previously drawn a total of $150 (*i.e.,* $120 − $90 + $120). Therefore, the General Partner must make a refund to the Partnership of $45.

EXAMPLE #2

Year	Cumulative net position	Performance fee account	Maximum draw	Draw or refund
1	$2,000	$400	$300	$300
2	1,000	200	150	(150)
3	500	100	75	(75)
4	900	180	135	60

Year 1 Assume that when the General Partner's Performance Fee first becomes drawable in 2007, the Cumulative Net Position for the Partnership is $2,000. The General Partner's Performance Fee is 20% of

[17] Where a partnership, such as the Partnership described herein, makes a distribution to the Limited Partners, that distribution can include any of the following: income, realized gains, and/or return of capital. Income and gains can arise at any time during the partnership's life. Although income and gains occur after the initial investment phase of a partnership, in the case of the Funds, such distributions have occurred during the Acquisition Phase. However generally, the contributed capital that gives rise to a gain attributed to the Partnership during the Acquisition Phase will be reinvested by the General Partner. Conversely, the contributed capital that gives rise to a gain attributed to the Partnership after the Acquisition Phase has been completed, will be distributed to a Limited Partner if the gain is realized after the Acquisition Phase expires.

[18] The assumption is, for purposes of this example, that all Limited Partners investing in the Partnership have received a 100 percent return of their capital contributions.

$2,000 or $400. The General Partner may draw 75% of the $400 fee or $300. $100 or 25% of the draw amount must be left in the Partnership as a cushion.[19]

Year 2 The Cumulative Net Position for the Partnership at the end of Year 2 has fallen to $1,000. The General Partner's Performance Fee is 20% of $1,000 or $200. TCC is entitled to draw $150, but since it has previously drawn $300, it must refund $150.

Year 3 The Cumulative Net Position for the General Partner has fallen to $500. The General Partner's Performance Fee now falls to $100 (*i.e.,* 20% of $500) with a permitted draw of $75 and a cushion of $25. Because the General Partner has previously drawn $150 ($300 − $150), it must make a refund to the Partnership of $75.

Year 4 The Cumulative Net Position for the Partnership is $900 at the end of Year 4. The General Partner's Performance Fee is 20% of $900 or $180. The General Partner's 75% draw on the Performance Fee equals $135. However, since the General Partner has previously drawn a total of $75 ($300 − $150 − $75), it may now draw a Performance Fee of $60.

13. The General Partner has been informed by its counsel that gains realized by the Partnership will, to the extent that they are allocable to the General Partner's Performance Fee Account, be taxable to the General Partner in the year gains are realized by the Partnership, even though the distribution of gains attributable to the General Partner will be deferred. Therefore, to enable the individual owners of the General Partner or its affiliates (collectively, referred to as the General Partner) to discharge their obligations to state or federal taxing authorities, it is proposed that an amount sufficient to pay taxes (representing approximately 5 percent of the gains of the Partnership) be distributed to the General Partner solely during the Partnership's Acquisition Phase. The sale of the Portfolio Company securities that gives rise to the early distribution of such gains may only occur in connection with a third party merger, acquisition or tender offer and not through an exercise of discretion by the General Partner.

Such distributions will be charged against the General Partner's Performance Fee Account and will reduce the balance that is used to calculate the 25 percent cushion required before actual distributions can be made to the General Partner.[20] In the event the General Partner receives a tax refund, the amount will be repaid by the General Partner to the Partnership to the extent a distribution has been made to such General Partner.

To ensure that tax refunds are repaid, the General Partner will retain an independent accounting firm to calculate the tax liabilities and credits. If a tax payment is owed by the General Partner, it will appear as an asset (*i.e.,* a receivable) on the Partnership's financial reports that are given to the Limited Partners.

In addition, the tax distributions will be in the exact amount of the General Partner's tax liability. All funds received in the distribution will be forwarded to the Service and no portion will be retained by either the General Partner or the Limited Partners. Therefore, there will be no gain by the General Partner.

Finally, TBFC notes that all of the Limited Partners were made aware of the tax distribution feature of the Partnership. TBFC states that this disclosure was made before the Limited Partners determined to commit capital to the Partnership.

14. The Partnership will terminate upon the earliest to occur of (a) the complete distribution of its assets, (b) a vote in favor of termination by 75 percent of the Limited Partners,[21] or (c) December 31, 2008. If it would be to the financial benefit of the Limited Partners to extend the term of the Partnership beyond 2008, extensions of up to two years may be initiated by the General Partner. Any further extension must be approved by the Limited Partners holding a majority of the Limited Partnership interests. Neither the General Partner nor the Partnership may acquire additional Partnership investments at the time of an extension. The purpose of the extension will be to allow the General Partner to liquidate the Partnership's existing investments, distribute the cash proceeds received from the liquidation to the Limited Partners, and terminate the Partnership.

Upon termination of the Partnership, all portfolio positions will be liquidated, Partnership expenses will be paid and distributions will be made (including any remaining portion of the General Partner's Performance Fee). If all assets cannot be converted into cash or if it would be disadvantageous to liquidate every asset, remaining assets may be distributed in-kind, at the discretion of the General Partner. The General Partner will then receive a fractional portion of its fee, in-kind. To ensure that the General Partner will not select higher income-generating Partnership assets for itself, each Limited Partner, as well as the General Partner, will receive a proportionate share of each Portfolio Company security that is distributed in-kind.

15. The following example illustrates the manner in which in-kind distributions will be made by the General Partner:

Assume that there are only two Limited Partners investing in the Partnership and that each has received a full return of capital. Non-Plan A investor has a Partnership interest worth $60 and the BF V Group Trust has a Partnership interest worth $40.

The Partnership holds 100 shares of Bank X stock which it acquired for $5 per share. Upon termination of the Partnership, Bank X stock is worth $7 per share.

The total unrealized gain attributable to Bank X stock is ($7 − $5) × 100 = $200.

The General Partner's Performance Fee is equal to $200 × 20% = $40.

The General Partner receives $40 ÷ $7 = 5.7 shares of Bank X stock.

The non-Plan investor receives 60% × 94.3 = 56.6 shares of Bank X stock.

The BF V Group Trust receives 40% × 94.3 = 37.7 shares of Bank X stock. Therefore, the Plans investing in the BF V Group Trust share proportionately in the 37.7 shares of Bank X stock.

16. In general, Partnership interests will not be assignable, and no Limited Partner may assign or otherwise transfer, pledge or otherwise encumber any or all of its interest in the Partnership without the prior consent of the General Partner. However, a Limited Partner may transfer its interest only after extending to the Partnership and

[19] The assumption is again, for purposes of this example, that all Plans investing in the BF V Group Trust have received a 100 percent return of their capital contributions.

[20] With the exception of the General Partner, all Limited Partners will receive distributions of gains when they are realized. (As noted previously, this could occur prior to the ending of the Acquisition Phase for the Partnership.) For example, if at any time during the Partnership's existence, a Portfolio Company security is purchased for $1 million and sold by the General Partner for $3 million, a $2 million gain will be realized by the Partnership. The Limited Partners will own $1.6 million of the gain while the General Partner will own $400,000 of the gain (*i.e.,* 20 percent of the Performance Fee). Both Plan and non-Plan Limited Partners will receive an aggregate distribution of $1.6 million which will be allocated among such Limited Partners. Depending on whether the Limited Partner receiving a portion of the $1.6 million gain is a taxable or non-taxable entity, the amount allocated to the Limited Partner will be taxed. Although the $400,000 gain attributable to the General Partner will be deferred, the Service will view the General Partner as having received taxable income of $400,000. If the tax rate is 25 percent, the General Partner will owe the Service $100,000. It is the $100,000 that the General Partner seeks to obtain as a tax distribution. The General Partner's remaining Performance Fee amount of $300,000 will stay in the Partnership even though the Limited Partners will receive their proportionate share of the $1.6 million.

[21] A vote of 75 percent of the Limited Partners to remove the General Partner will also result in the termination of the Partnership.

the other Limited Partners the right of ''first offer.''

In addition, because the BF V Group Trust's investment philosophy is inconsistent with at-will withdrawals, redemptions of Partnership interests are limited to situations where (a) a replacement Plan is available from either current Plans investing in the BF V Group Trust or there are new, qualified investors;

(b) a Plan submits to the General Partner and the Trustee, a written opinion of counsel to the effect that the Plan's continued participation in the BF V Group Trust would violate the Act and that relief from the violation cannot be obtained;

(c) the Plan loses its tax-exempt status and that loss threatens the tax-exempt status of the BF V Group Trust; and (d) the BF V Group Trust loses its tax-exempt status or fails to obtain the exemptive relief proposed herein for the necessary operation of such Group Trust. This information will be disclosed to investors.

17. The BF V Group Trust Agreement requires that the General Partner, as Administrator of the BF V Group Trust, provide the Independent Fiduciary of each Plan proposing to invest in the BF V Group Trust with a copy of the Private Placement Memorandum by the General Partner. The Private Placement Memorandum describes all material facts concerning the purpose, structure and operation of the BF V Group Trust.

If the Independent Fiduciary expresses further interest in participating in the BF V Group Trust, such Independent Fiduciary will be provided with copies of the BF V Group Trust Agreement outlining the organizational principles, investment objectives and administration of the BF V Group Trust, the manner in which Trust shares could be redeemed, the duties of the parties retained to administer the BF V Group Trust and the manner in which Group Trust assets would be valued. The Independent Fiduciary will also be provided with a copy of the Partnership Agreement which describes the organizational principles, investment objectives and administration of the Partnership, the manner in which Partnership assets will be valued, the duties and responsibilities of the General Partner, the rate of remuneration that the General Partner will be paid and the conditions under which the General Partner may be removed. Once the Independent Fiduciary has made a decision to invest in the BF V Group Trust, the General Partner will provide such Independent Fiduciary with the names and addresses of all other participating Plans as well as non-Plan investors.

18. The Independent Fiduciary will be required to acknowledge, in writing, prior to purchasing a beneficial interest in the BF V Group Trust that such fiduciary has received copies of the foregoing documents. The Independent Fiduciary will also be required to acknowledge, in writing, to the General Partner that such fiduciary is independent of the General Partner and its affiliates, capable of making an independent decision regarding the investment of Plan assets, knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and able to make an informed decision concerning participation in the BF V Group Trust.

With respect to its ongoing participation in the BF V Group Trust, each Plan and the Trustee will receive the following written disclosures from the General Partner, as the Administrator of the BF V Group Trust:

(a) Within 90 days after the end of each fiscal year of the BF V Group Trust as well as at the time of termination, an annual financial report containing a balance sheet for the BF V Group Trust and the Partnership as of the end of such fiscal year and a statement of the changes in the financial position for the fiscal year, as audited and reported upon by independent, certified public accountants. The annual report will also disclose the remuneration actually paid or accrued to the General Partner.

(b) Within 60 days after the end of each quarter (except in the last quarter) of each fiscal year of the BF V Group Trust and the Partnership, an unaudited quarterly financial report consisting of at least a balance sheet for the BF V Group Trust and the Partnership as of the end of such quarter and a profit and loss statement for such quarter. The quarterly report will also specify the remuneration that is actually paid or accrued to the General Partner.

In addition to the foregoing reports, the General Partner will prepare and distribute to the BF V Group Trust and each Plan such other information as may be reasonably requested by the Plans to comply with the reporting requirements of the Act or Code (including copies of the proposed exemption and grant notice with respect to the exemptive relief granted herein).

At least annually, the General Partner will hold a meeting of the Partnership, at which time, the Independent Fiduciaries of participating Plans will have the opportunity to decide on whether the Partnership, the BF V Group Trust, the Trustee or the General Partner should be terminated as well as discuss any aspect of the Partnership and Group Trust and the Agreements promulgated thereunder. Finally, during each year of the BF V Group Trust, representatives of the General Partner will be available to confer by telephone or in person with Independent Fiduciaries on matters concerning the BF V Group Trust or the Partnership.

19. The terms of all transactions that are entered into on behalf of the Partnership by the General Partner will be at least as favorable to an investing Plan as those obtainable in arm's length transactions with unrelated parties. In this regard, valuations of (and for) the Partnership will be needed for general accounting purposes, to determine the value of the Partnership's assets for reports to the Limited Partners, for distributions of securities and to calculate the General Partner's Performance Fee when the General Partner seeks to draw upon it. The General Partner, subject to the review and approval of the Valuation Committee, will determine the fair market value of the assets and liabilities of the Partnership as of each fiscal date.[22] The Valuation Committee, which is the same advisory committee that served MBF I and II and currently serves BF III and IV, will also serve as the Independent Appraiser. The Valuation Committee is composed of three members who are experienced in valuing the securities of Portfolio Companies. None of the members of the Valuation Committee has an ownership or creditor relationship with the General Partner.

As the Independent Appraiser, each member of the Valuation Committee must not be controlled by (or control) TBFC or the Partnership and must not receive more than 5 percent of their lowest annual income from the General Partner or the Partnership, either during the term of the Partnership or in the three years preceding its creation. Individual members of the Valuation Committee or the entire committee may be removed by the General Partner only for cause and with or without cause by Limited Partners holding a majority of the Limited Partnership interests. A

[22] It is represented that the General Partner will gather all requisite information to produce the valuation. This information may include pricing information on any exchange-traded securities plus more voluminous operating and financial data on the companies for whose securities there is a thinner market. The General Partner will then compile this information into a report which is submitted to the Valuation Committee. After reviewing the submitted information, the Committee will meet with the staff of the General Partner to discuss the valuation materials. At the end of this meeting, the Valuation Committee will set the valuation for all portfolio hedgings. Thus, from both a legal and operative standpoints, the Partnership Agreement will control the valuation process and the Valuation Committee will value the Fund.

majority of the Limited Partners must approve a replacement Independent Appraiser. If the Limited Partners and the General Partner cannot agree upon a replacement Independent Appraiser, the firm of KPMG Peat Marwick LLP will be appointed.

Although the General Partner will nominate the Independent Appraiser, the Limited Partners will be given the option of either approving or disapproving the nominee. The Independent Appraiser will not be appointed absent the affirmative written approval of a majority of the Limited Partners. However, the Limited Partners will have no veto power over the General Partner's decision that an Independent Appraiser is required.

If applicable, the Independent Appraiser will use the principles set forth in Revenue Ruling 59–60 and the Department's proposed ''Adequate Consideration'' regulations (53 FR 17632, May 17, 1988) to determine fair market value. The valuations made by the Independent Appraiser will be binding upon the General Partner. In addition, the Independent Appraiser will issue a report to the General Partner which sets forth the Independent Appraiser's pricing methodology and rationale for securities it has been asked to value. Such report will be issued after each required valuation and will comply with the aforementioned regulations.

With respect to securities for which a market exists, the Independent Appraiser will determine their value according to the following principles:

(a) *National Securities Exchange.* Any security which is listed on a national securities exchange generally will be valued based on its last sales price on the national securities exchange on which the security is principally traded on the valuation date.[23] If no sale of a listed Security occurred on the valuation date, the value will be based on the last bid price.

(b) *No Listing.* Any security which is not listed on a national securities exchange will be valued upon the last publicly available bid price.[24]

(c) *Discount for Illiquidity.* Anything herein to the contrary notwithstanding, the Independent Appraiser in its discretion may apply a discount for illiquidity, on the valuation of securities that have a thin public market.

In the event that there is no independent market for a security or the security is not listed on a national securities exchange, the Independent Appraiser will be required to value such securities. Under such circumstances, the securities will be valued at the time of acquisition at their cost. The Independent Appraiser will continue valuing the securities at their cost until a determination is made that a different valuation level is indicated by the occurrence of (a) a significant change in book value, (b) a significant change in a Portfolio Company's business, (c) a significant third-party transaction, or (d) any other significant change in the Financial Company, its industry or the general market.

20. With respect to transactions that may arise during the existence of the Partnership and which involve parties in interest with respect to participating Plans, the General Partner requests exemptive relief from the provisions of section 406(a) of the Act. Specifically, TBFC requests exemptive relief where the Partnership sells securities in the Partnership Portfolio for cash or other securities to a party in interest with respect to a participating Plan in the context of an acquisition or merger by the party in interest, provided the party in interest is not an affiliate of the General Partner. TBFC represents that the Partnership will receive the same offer that other shareholders of Portfolio Companies will receive. Because the Partnership will always be a minority shareholder in such situation, TBFC states that the Partnership will be in the position of a beneficiary of the acquisition offer and it will not be in the position off an active player in the merger or acquisition transactions.

21. In summary, it is represented that the proposed transactions will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The participation by a Plan in the BF V Group Trust and in the Partnership will be approved by an Independent Fiduciary.

(b) Each Plan investing in the Partnership through the BF V Group Trust will have assets that are in excess of $50 million.

(c) No Plan will invest more than 10 percent of its assets in the Partnership through the BF V Group Trust and a Plan's respective interests in both entities will not represent more than 25 percent of the assets of either the BF V Group Trust or the Partnership.

(d) No Plan will invest more than 25 percent of its assets in investment funds and separate accounts managed or sponsored by TBFC and/or its affiliates.

(e) Prior to making an investment in the BF V Group Trust and the Partnership, each Independent Fiduciary contemplating investing therein will receive offering materials which disclose all material facts concerning the purpose, structure and operation of the BF V Group Trust, the Partnership and the fees paid to the Trustee and the General Partner.

(f) Each Plan investing in the BF V Group Trust and the Partnership will be required to acknowledge, in writing, prior to purchasing interests that such fiduciary has received copies of such documents and to acknowledge, in writing, to the General Partner that such fiduciary is (1) independent of the General Partner and its affiliates, (2) capable of making an independent decision regarding the investment of Plan assets and (3) knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and able to make an informed decision concerning participation in the BF V Group Trust.

(g) The General Partner will make quarterly and annual written disclosures to participating Plans with respect to the financial condition of the Partnership and the total fees that it will receive for services rendered to such Partnership.

(h) The General Partner will hold annual meetings and conduct periodic discussions with Independent Fiduciaries to address matters pertaining to the BF V Group Trust or the Partnership.

(i) The terms of all transactions that are entered into on behalf of the Partnership by the General Partner shall remain at least as favorable to an investing Plan as those obtainable in arm's length transactions with unrelated parties. In this regard, the valuation of assets of the Partnership will be based upon independent market quotations or determinations made by an Independent Appraiser.

(j) As to each Plan, the total fees paid to the General Partner and its affiliates will constitute no more than reasonable compensation.

(k) Any increase in the General Partner's Performance Fee will be based upon a predetermined percentage of net realized gains minus net unrealized

[23] TBFC explains that the phrase ''principally traded'' means that if a security is traded on more than one exchange and if the trade prices differ between exchanges, the value will be taken from the exchange on which the largest volume of that security has traded.

[24] TBFC explains that the most recent trade price is not used to value a security in this instance because it may be too dated to provide an accurate estimate of value. Instead, TBFC considers the bid price to be indicative of the current value at which someone would be willing to acquire a security on the valuation date. TBFC further notes that the use of the bid price rather than the previous trading or closing price in valuing a Security provides a conservative valuation approach which will result, in most instances, in a lower Performance Fee paid to the General Partner. The Department assumes that the bid price described herein represents active bids and is a true indicator of market prices.

losses. In this regard, (1) Except as described in item (1) below, no part of the General Partner's Performance Fee may be withdrawn before December 31, 2006, which represents the completion of the Acquisition Phase of the Partnership and not until the Limited Partners have received distributions equal to 100 percent of their capital contributions to the Partnership.

(2) Prior to the termination of the Partnership, no more than 75 percent of the Performance Fee credited to the General Partner may be withdrawn from the Partnership.

(3) The Performance Fee Account established for the General Partner will be credited with net realized gains and charged for net unrealized losses and Performance Fee distributions.

(4) The General Partner will repay all deficits in its Performance Fee Account and it will maintain a 25 percent cushion in such account before receiving any further distribution.

(1) The General Partner will be entitled to take distributions with respect to its Performance Fee in the amount of any income tax liability it or its affiliates become subject to with respect to net capital gains of the Partnership (i) only during the Partnership's Acquisition Phase and (ii) provided such gains are based on the sale of Portfolio Company securities that is initiated by a third party in connection with a merger, tender offer or acquisition.

(m) The General Partner will be obligated to repay to the Partnership any tax refund received to the extent a distribution have been made to such General Partner.

Notice to Interested Persons

Notice of the proposed exemption will be given to Plans intending to invest in the Partnership through the BF V Group Trust within 3 days of the date of publication of the notice of pendency in the **Federal Register**. Such notice will include a copy of the notice of proposed exemption, as published in the **Federal Register**, as well as a supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2), which shall inform interested persons of their right to comment on and/or to request a hearing. Comments and hearing requests with respect to the proposed exemption are due 33 days after the date of publication of the proposed exemption in the **Federal Register**.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Standard Insurance Company (Standard) Located in Portland, OR

[Application No. D–10705]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 408(a) of the Act (or ERISA) and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).[25]

Section I. Covered Transactions

If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective April 21, 1999, to (1) the receipt of common stock (the Stock) of the StanCorp Financial Group, Inc. (the Holding Company), the parent of Standard, or (2) the receipt of cash (Cash) or policy credits (Policy Credits), by or on behalf of any eligible policyholder (the Eligible Member) of Standard which is an employee benefit plan (the Plan), including the Standard Group Life, Supplemental Life and AD&D Plan for Employees and Agents (the Standard Group Life Plan) and the Standard Group Term and Short Term Disability Employees Plan (the Standard Disability Plan; together, the Standard Welfare Plans), in exchange for such Eligible Member's interest in Standard, in accordance with the terms of a plan of demutualization (the Plan of Demutualization or Demutualization Plan) adopted by Standard and implemented pursuant to Section 732 of the Oregon Revised Statutes.[26]

In addition, the restrictions of section 406(a)(1)(E) and (a)(2) and section 407(a)(2) of the Act shall not apply, effective April 21, 1999, to the receipt or holding, by the Standard Welfare Plans, of employer securities in the form of excess Holding Company Stock, in accordance with the terms of the Demutualization Plan.

The proposed exemptions described above are subject to the following conditions:

(a) The Plan of Demutualization was implemented in accordance with procedural and substantive safeguards that were imposed under Oregon Insurance Law and was subject to review and supervision by the Director of the Department of Consumer and Business Services of the State of Oregon (the Director).

(b) The Director reviewed the terms of the options that were provided to Eligible Members of Standard, which included, but were not limited to the subject Plans, as part of his review of the Demutualization Plan, and only approved such Demutualization Plan following a determination that the Plan was fair and equitable to all Eligible Members and was not detrimental to the public.

(c) Each Eligible Member had an opportunity to vote to approve the Plan of Demutualization after full written disclosure was given to the Eligible Member by Standard.

(d) One or more independent fiduciaries of a Plan that was an Eligible Member received Holding Company Stock, Cash or Policy Credits, pursuant to the terms of the Demutualization Plan, and neither Standard nor any of its affiliates exercised any discretion or provided ''investment advice,'' within the meaning of 29 CFR 2510.3–21(c), with respect to such acquisition.

(e) With respect to the Standard Welfare Plans and other Plans sponsored by Standard and its affiliates (collectively, the Standard Plans), where the consideration was in the form of Holding Company Stock, Northwestern Trust and Advisory Company (Northwestern Trust), the independent Plan fiduciary appointed to represent the interests of each of the Standard Plans,

(1) Exercised its authority and responsibility to vote on behalf of the Standard Plans at the special meeting of Eligible Members on the proposal to approve the Demutualization Plan;

(2) Monitored the Holding Company Stock received by a Standard Plan; and

(3) Provided instructions with respect to the voting, the continued holding and the disposition of Holding Company Stock held by all of the Standard Plans.

(f) After each Eligible Member was allocated at least 52 shares of Holding Company Stock, additional consideration was allocated to Eligible Members who owned participating policies based on actuarial formulas that took into account each participating policy's contribution to the surplus of Standard which formulas have been approved by the Director.

(g) All Eligible Members that were Plans participated in the transactions on the same basis within their class groupings as other Eligible Members that were not Plans.

(h) No Eligible Member paid any brokerage commissions or fees in

[25] For purposes of this exemption, reference to provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

[26] Unless otherwise noted, the client Plans and the Standard Plans are collectively referred to as the Plans.

connection with the receipt of Holding Company Stock, nor has (or will) such Eligible Member pay any brokerage commissions or fees in connection with the implementation of the commission-free sales and purchase program (the Program).

(i) All of Standard's policyholder obligations will remain in force and will not be affected by the Plan of Demutualization.

Section II. Definitions

For purposes of this proposed exemption:

(a) The term ''Standard'' means The Standard Insurance Company and any affiliate of Standard as defined in paragraph (b) of this Section III.

(b) An ''affiliate'' of Standard includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Standard; (For purposes of this paragraph, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.) and

(2) Any officer, director or partner in such person.

(c) The term ''Eligible Member'' means a policyholder who is eligible to vote and to receive consideration under Standard's Demutualization Plan. Such Eligible Member must have been a policyholder of Standard on December 17, 1997, the date the Plan of Demutualization was adopted by the Board of Directors of Standard.

(d) The term ''policy credit'' means an increase in the accumulation account value [27] (to which no surrender or similar charges are applied) in the general account or an increase in a dividend accumulation on a policy.

Effective Date: If granted, this proposed exemption will be effective as of April 21, 1999.

Summary of Facts and Representations

1. Standard was formerly a mutual life insurance company chartered under the laws of the State of Oregon. It was originally chartered in 1906 as a stock company and was subsequently ''mutualized'' in 1929 under Oregon law. Standard is authorized to transact life, health and annuity business in all 50 states (reinsurance only in New York), the District of Columbia and the U.S. Territory of Guam. As of December 31, 1998, Standard had admitted assets (on a statutory basis) in excess of $4.9 billion and generated $890.9 million in annualized premium and annuity consideration.

Standard's home office is located at 1100 S.W. Sixth Avenue, Portland, Oregon. As of December 31, 1998, Standard was rated A (Excellent) by A.M. Best, A+ (Good) by Standard and Poor's, AA (Very High Claims Paying Ability) by Duff & Phelps and A2 (Good) by Moody's.

As a mutual life insurance company, Standard had no stockholders. Instead, its policyholders were members of the company and were entitled to vote to elect its directors and would be entitled to share in its assets upon its liquidation.

Standard provides a variety of fiduciary and other services, including plan administration, investment management and related services, to Plans policyholders that are covered under the applicable provisions of the Act and/or the Code. As a result, Standard may be considered a party in interest or a disqualified person with respect to such Plans under section 3(14)(A) and (B) of the Act as well as the related ''derivative'' provisions of section 3(14) of the Act.

Standard has actively marketed its products to Plans. As of December 31, 1997, Standard had approximately 30,800 outstanding policies and contracts issued in connection with Plan policyholders that were pension or welfare plans subject to the Act. Of these policies, approximately 5,200 contracts were issued to defined benefit or defined contribution pension plans (including section 401(k) plans) and over 25,600 contracts were issued to welfare plans to provide group life, short-term and long-term disability, accidental death and dismemberment, and group health and dental coverage.

2. Standard Management, Inc. (Standard Management) is a holding company that is organized under Oregon law and formerly wholly owned by Standard. On April 21, 1999, the effective date of the demutualization, Standard Management became a wholly owned subsidiary of StanCorp Financial Group, Inc. (*i.e.,* the Holding Company), which also became the parent of Standard. The Holding Company is also organized under Oregon law.

3. Standard has also created two limited liability companies under Oregon law. They are Standard Mortgage Investors, LLC (Standard Mortgage), which manages Standard's mortgage loan portfolio and markets its expertise to other investors and Standard Real Estate Investors, LLC (Standard Real Estate Investors), which is engaged in the business of real estate management, primarily with respect to real estate owned by Standard. Currently, the assets of Standard Mortgage and Standard Real Estate Investors are owned completely by Standard through Standard Management.

In addition to these companies, Standard has formed Stan-West Equities, Inc. (Stan-West), a licensed broker-dealer, 400 Health Club, Inc. (400 Health Club), a corporate shell that does not conduct business of any kind, and Standard Assigned Benefits, Inc. (Standard Assigned Benefits), an entity which was formerly in the business of funding structured litigation settlements but which is not transacting business at the present time. Through its sister, Standard Management, Standard owns 100 percent of the assets of these entities.

4. Standard and its affiliates also sponsor a number of retirement and welfare plans for their agents and employees that participated in the demutualization transaction described herein. The affected Standard Plans, their total number of participants and assets are shown as follows as of December 31, 1997, which is the most recent date this information is available:

Standard plans	Number of participants as of 12/97	Total assets as of 12/97
Group Life, Supplemental Life and AD&D Employees and Agents	2,837	[1] $431,985
Group Long Term and Short Term Disability-Employees	1,771	[1] 802,820
Defined Benefit Plan-Employees	1,419	64,754,363
Defined Benefit Plan-Agents ...	85	13,442,533
Defined Contribution Plan-Employees	1,405	55,397,674
Defined Contribution Plan-Agents	119	16,200,232

[1] Expressed as an annualized premium.

5. In 1997, Standard's Board of Directors authorized its management to develop a plan of demutualization

[27] In general, a policy's accumulation account value is expressed in dollar terms and reflects contributions and interest credited under the policy, less expenses and withdrawals. Accumulation values may be applied for the purchase of annuity benefits, or depending on the provisions of the contract, withdrawn by the policyholder in a lump sum or installments. Under Standard's Plan of Demutualization, where a policy eligible for distributions under such Plan has an accumulation value, the policy's accumulation value will be increased by an amount equal to the distribution the policyholder is entitled to under the Plan.

whereby Standard would be converted from a mutual life insurance company to a stock life insurance company. In response, Standard began developing the Plan of Demutualization which was formally adopted by the Board of Directors on September 28, 1998. The principal purposes for the demutualization were to (a) enhance Standard's strategic and financial flexibility by creating a corporate structure that would provide opportunities for obtaining additional capital from sources that are unavailable to Standard in its current form as a mutual insurer; (b) allow Standard to use stock options or other equity-based compensation arrangements to attract and retain talented employees; (c) facilitate acquisitions, which Standard's management viewed as an important element of future growth; and (d) provide Eligible Members with an opportunity to convert their illiquid interests as members of Standard into shares of Stock of the Holding Company or Cash or Policy Credits. The demutualization would not, in any way, change premiums or reduce policy benefits, values, guarantees or other policy obligations of Standard to its policyholders. Policy dividends would continue to be paid as declared, although they may vary from year to year. In effect, insurance policies would remain in force and policyholders would be entitled to receive the benefits under their policies and contracts to which they would have been entitled if the Demutualization Plan had not been adopted.

6. Therefore, Standard has requested an individual exemption from the Department that would apply, effective April 21, 1999, to the receipt of Holding Company Stock, Cash or Policy Credits by Eligible Members that were Plans in exchange for their existing membership interests in Standard because it believes the transaction could be viewed as a prohibited sale or exchange of property between a plan and a party in interest in violation of section 406(a)(1)(A) and (D) of the Act. Standard also has requested exemptive relief, effective April 21, 1999, with respect to distributions of Holding Company Stock to the Standard Welfare Plans, because it believes the receipt of Holding Company Stock by these Standard Plans violated section 406(a)(1)(E) and (a)(2) of the Act and section 407(a)(2) of the Act, in addition to section 406(a)(1)(A) and (D) of the Act.[28] Standard represents that although the Holding Company Stock would constitute ''qualifying employer securities'' within the meaning of section 407(d)(5) of the Act, such stock would represent 100 percent of the assets of the Standard Welfare Plans, in violation of section 407(a)(2) of the Act. Standard also asserts that the statutory exemptive relief contained in section 408(e) of the Act would not apply to the acquisition and holding of Holding Company Stock by the Standard Welfare Plans.[29]

Standard further notes that the holding of Holding Company Stock by the Standard Welfare Plans would not violate section 407(f) of the Act because neither Plan would own more than 25 percent of the outstanding shares of Holding Company Stock, and at least 50 percent of the outstanding shares would be owned by persons who were independent of the issuer.

Standard represents that statutory exemptive relief from section 408(e) of the Act would apply to distributions of Holding Company Stock to its defined benefit plans (*i.e.,* the Defined Benefit Retirement Plan-Employees and the Defined Benefit Retirement Plan-Agents) (together, the Standard Defined Benefit Plans) because the fair market value of the Stock would not exceed 10 percent of the assets of these Plans. Therefore, Standard has not requested that the exemption apply to the Standard Defined Benefit Plans.

Similarly, Standard represents that section 408(e) would be applicable to distributions of Holding Company Stock to its two defined contribution plans (*i.e.,* the Defined Contribution Plan-Employees and the Defined Contribution Plan-Agents) (together, the Standard Defined Contribution Plans).[30] Therefore, Standard has not requested that the exemption apply to the Standard Defined Contribution Plans.

7. Standard's Plan of Demutualization was approved by the Director in January 1999. Subsequently, the following steps were taken to implement the Demutualization Plan:

(a) *Demutualization under Oregon Law.* Standard converted from a mutual life insurance company to a stock life insurance company on April 21, 1999 in accordance with the requirements of Sections 732.600 to 732.630 of the Oregon Revised Statutes as well as under the provisions of its Plan of Demutualization. Each policyholder's membership interest in Standard was terminated. As compensation for their membership interests, Eligible Members received Holding Company Stock, Cash or Policy Credits as compensation for the termination of their interests.

As a result of the demutualization, Standard became a stock company and a wholly owned subsidiary of the Holding Company. Standard also distributed its real estate management and mortgage subsidiaries (*i.e.,* Standard Mortgage and Standard Real Estate Investors) and certain other non-insurance subsidiaries (*i.e.,* Stan-West Equities, 400 Health Club and Standard Assigned Benefits) to the Holding Company. As a result, these companies became direct or indirect subsidiaries of the Holding Company.

(b) *The Initial Public Offering (the IPO).* The Holding Company sold 15,209,400 shares of Holding Company Stock in an underwritten IPO in conjunction with the demutualization. The Holding Company also arranged for the listing of Holding Company Stock on the NYSE.

(c) *Contribution to the Capital of Standard.* Following the transactions described above, the Holding Company contributed $267.9 million raised in the IPO (after the payment of transaction expenses) to Standard to pay Cash consideration to certain Eligible Members and to fund Policy Credits for other Eligible Members as required under the Plan of Demutalization.

8. Standard represents that Sections 732.600 to 732.630 (Section 732) of the Oregon Revised Statutes establish an approval process for the demutualization of a life insurance company organized under Oregon law.

[28] Section 406(a)(1)(E) of the Act prohibits the acquisition by a Plan of any employer security that violates section 407(a) of the Act. Section 406(a)(2) of the Act states that no fiduciary who has authority or discretion to control the assets of a plan shall permit the plan to hold any employer security if he [or she] knows that holding such security would violate section 407(a) of the Act. Section 407(a)(1)(A) of the Act states that, except otherwise provided, a plan may not hold any employer security which is not a qualifying employer security. Section 407(a)(2) of the Act prohibits the acquisition by a plan of any qualifying employer security if immediately after such acquisition, the aggregate fair market value of such securities exceeds 10 percent of the fair market value of the plan's assets.

[29] Northwestern Trust, which was retained by Standard as the independent fiduciary for all of the Standard Plans, subsequently determined (see Representation 11) that the only Standard Plan affected by the ''excess holding problem'' was the Standard Group Life Plan. Although Northwestern Trust expressed no opinion on the Standard Disability Plan, Standard believes that Northwestern Trust may have concluded that the Holding Company Stock received in connection with the demutualization was not a ''plan asset'' and was thus allocable to Standard. Nevertheless, to remove any doubt, Standard has requested that the exemption apply to both of the Standard Welfare Plans. However, the Department is not expressing an opinion herein on whether the Standard Disability Plan is entitled to any of the consideration received as a result of the demutualization.

[30] The Department expresses no opinion herein on whether the Holding Company Stock constitutes qualifying employer securities and whether such distributions satisfied the terms and conditions of section 408(e) of the Act.

Specifically, Section 732 requires that a plan of demutualization be approved by both the Director and a vote of the policyholders. The Director may hold a hearing for the purpose of receiving comments on whether a plan should be approved and on any other matter relating to the demutualization. After the hearing, the Director will approve the demutualization plan if he or she finds all of the following: [31]

(a) The applicable provisions of ORS 732.600 to 732.630, and other applicable provisions of the law, have been fully met.

(b) The plan protects the rights of policyholders.

(c) The plan will be fair and equitable to the members, and the plan will not prejudice the interests of the members.

(d) The allocation of consideration among the Eligible Members is fair and equitable.

(e) The converted stock insurer will have capital or surplus, or any combination thereof, that is required of a domestic stock insurer on initial authorization to transact like kinds of insurance, and otherwise will be able to satisfy the requirements of this state for transacting its insurance business.

(f) The plan will not substantially reduce the security of the policyholders and the service to be rendered to the policyholders.

(g) If a stock holding or mutual holding company is organized, the financial condition of the stock holding company, the mutual holding company or any subsidiary thereof will not jeopardize the financial stability of the converted stock insurer.

(h) The financial condition of the converting mutual insurer will not be jeopardized by the conversion or reorganization, and the conversion or reorganization will not jeopardize the financial stability of the stock holding company, the mutual holding company or any subsidiary thereof.

(i) The competence, experience and integrity of those persons who will control the operation of the converted stock insurer are not contrary to the interests of policyholders of the converted stock insurer and of the public in allowing the plan to proceed.

(j) Implementation of the plan will protect the interests of the insurance-buying public.

(k) The activity is not subject to other material and reasonable objections.

(l) All modifications required by the Director have been made.

Section 732 authorizes the Director to employ staff personnel and to engage outside consultants to assist the Commissioner in determining whether a demutualization plan meets the requirements of Section 732. (In the case of the Standard demutualization, the Director retained Ernst & Young to provide actuarial services, Sidley & Austin to provide legal services and Merrill Lynch & Co. to provide investment banking services.) The decision by the Director to approve a demutualization plan under Section 732 is subject to judicial review in the Oregon courts.

9. In addition to being approved by the Director, Standard represents that its Demutualization Plan had to be approved by its policyholders. In this regard, Section 732 requires that the policyholders be provided with notice of a meeting convened for the purpose of voting on whether to approve the demutualization plan.[32] Moreover, the demutalization plan must be approved by a vote of not less than a majority of the votes of the insurer's policyholders voting thereon in person, by proxy or by mail.

With respect to Standard, approximately 114,000 Eligible Members were eligible to vote on the Demutualization Plan which occurred at a special meeting on March 19, 1999. Each Eligible Member was entitled to one vote. Of the Eligible Members, 35,569 or 32.4 percent voted and 32,598 or 91.7 percent of the votes cast were in favor of the demutualization.

10. Standard's Demutualization Plan provided for Eligible Members to receive Holding Company Stock, Cash or Policy Credits as consideration for the termination of their membership interests in the mutual company. (Combinations of different forms of consideration were not permitted.) For purposes of the demutualization, an Eligible Member is any owner of one or more policies of insurance, if the policy was in force as of December 17, 1998, the record date for the plan of conversion. This was the date that Standard's Board of Directors adopted the Demutualization Plan.

Solely for purposes of calculating the amount of consideration, each Eligible Member was allocated (but not necessarily issued) a minimum of 52 shares of Holding Company Stock as soon as reasonably practicable after April 21, 1999, the effective date of the demutualization. Any remaining Holding Company Stock was allocated substantially on the basis of the contributions to surplus made by each Eligible Member's in-force policies.[33] In this regard, under Section 732, the Director was required to make a finding that the allocation methodology was fair and equitable.

Certain Eligible Members received Cash or Policy Credits in lieu of Holding Company Stock, which Cash or Policy Credits had a value equal to the Holding Company Stock the policyholders would otherwise have received, based on the price per share of the Holding Company Stock in the IPO. Specifically, an Eligible Member received Cash in lieu of allocable Holding Company Stock (a) if the owner of the policy was known to Standard to be subject to a bankruptcy proceeding, or (b) where the Eligible Member's address for mailing purposes, as shown on the records of Standard, was located outside the United States of America or was shown on Standard's records to be an address at which mail to such Eligible Member is undeliverable, or (c) where an Eligible Member, who had been allocated 99 shares or less of Holding Company Stock, made an affirmative election, on a form provided to such Eligible Member by Standard, to receive Cash instead of Holding Company Stock.

An Eligible Member received Policy Credits in lieu of Holding Company Stock with respect any policy that was (a) an individual retirement annuity contract within the meaning of section 408 of the Code, (b) a tax sheltered annuity contract within the meaning of section 403(b) of the Code, (c) an individual annuity contract that had been issued pursuant to a plan qualified under section 401(a) of the Code directly to the plan participant, or (d) an individual life insurance policy that had been issued pursuant to a plan qualified under section 401(a) of the Code directly to the plan participant.

The decision to receive Holding Company Stock, Cash or Policy Credits by a Plan was made by one or more fiduciaries of such Plan which was independent of Standard and its affiliates. In addition, neither Standard nor any of its affiliates exercised discretion or provided ''investment advice,'' within the meaning of 29 CFR 2510.3–21(c), with respect to each such acquisition.[34] Further, no Eligible

[31] The Director held a public hearing regarding Standard's demutualization on January 27, 1999 and approved the Demutualization Plan by order issued on February 12, 1999.

[32] Under Oregon law, the notice of the policyholder meeting must be mailed within 45 days of the Director's order and at least 30 days prior to the meeting. Eligible Members must receive two notices. The first notice pertains to the public hearing and includes a summary of the plan of demutualization and provides information regarding the right of the Eligible Member to comment, either in person or in writing, on the plan. The second notice relates to the meeting to vote on the plan of demutualization and includes a full copy of the plan, a detailed explanation of the plan and its consequences, and an explanation of the voting procedure.

[33] As noted above, Standard's IPO resulted in the sale of 15,290,400 shares of Holding Company Stock. An additional 18,310,836 shares were also allocated by Standard to Eligible Members.

[34] Consistent with section 732.600 to 732.630 of Oregon Insurance Law, the Demutualization Plan generally provides that the policyholder eligible to participate in the distribution of stock, cash or policy credits resulting from the Demutualization

Continued

Member will pay any brokerage commissions or fees in connection with the receipt of stock.

11. Standard's Demutualization Plan provided for the Holding Company to establish a commission-free sales and purchase program. The Program commenced on February 24, 2000 and it will continue until May 31, 2000. The Program may be extended if the Board of Directors of the Holding Company determines that the extension is appropriate and in the best interest of the Holding Company and its shareholders.

Under the Program, each Eligible Member who received 99 or fewer shares of Holding Company Stock has been given the opportunity to sell, at prevailing market prices, all shares of such stock. Moreover, an Eligible Member who received 99 or fewer shares of Holding Company Stock is permitted to purchase, at prevailing market prices, additional shares of Holding Company Stock required to round-up the total number of shares to 100. Under either the sales or purchase components of the Program, the Eligible Member is not required to pay any brokerage commissions or similar fees. Also, Standard and its affiliates have not provided (and will not provide) ''investment advice,'' as defined in 29 CFR 2510.3–21(c).

12. Northwestern Trust was appointed by Standard to serve as the independent fiduciary and, in so doing, to represent the interests of the Standard Plans that are identified in Representation 4. Northwestern Trust is a privately-owned trust company chartered by the State of Washington and regulated by the State of Washington Department of Financial Institutions. As of May 31, 1999, Northwestern Trust had assets under administration exceeding $3.5 billion. A majority of those assets consisted of retirement plan assets. Northwestern Trust's professional staff manages ERISA programs and its ERISA clients are located in 15 states across the United States. Northwestern Trust provides fiduciary services to a variety of pension and welfare plans and it is experienced in connection with the acquisition, retention and disposition of employer securities. In addition, Northwestern Trust is extensively involved with non-qualified deferred compensation arrangements. To assist Northwestern Trust in carrying out its independent fiduciary duties, it retained Dorsey & Whitney LLP as independent legal counsel.

Northwestern Trust represents that it is completely unrelated to Standard and its affiliates. In this regard, Northwestern Trust states that both it and Standard have no common officers or directors nor does it have an ownership interest in Standard or vice versa.

Northwestern Trust also represents that although it had no voting or dispositive power over shares of Holding Company Stock other than pursuant to its Independent Fiduciary Agreement with Standard, it acted as a directed trustee or custodian to various retirement or welfare plans that were not sponsored by Standard or its affiliates. On a *de minimus basis*, Northwestern Trust explains that it made investments on behalf of these plans in contracts issued by Standard. However, Northwestern Trust states that it received no revenues from these investments other than a trustee or custodial fee from the investing plan.

As the independent fiduciary for the Standard Plans, Northwestern Trust explains that it understood and acknowledged the duties, responsibilities and liabilities in acting as a fiduciary for such Plans. In this respect, Northwestern Trust states that in accordance with the terms of its Independent Fiduciary Agreement, it (a) exercised its authority and responsibility to vote on behalf of the Standard Plans at the special meeting of Eligible Members on the proposal to approve the Demutualization Plan; (b) monitored, on behalf of the Standard Plans, the holding of the Holding Company Stock; and (c) provided instructions with respect to the voting, the continued holding and the disposition of Holding Company Stock held by all of the Standard Plans. Finally, Northwestern Trust asserts that it would take all actions that were necessary and appropriate to safeguard the interests of the Standard Plans.

Northwestern Trust notes that the Standard Plans were entitled to receive consideration in the form of Holding Company Stock because each of these Plans was allocated more than 99 shares. Thus, Northwestern Trust states that it was not required to make an ''election'' with respect to the form of consideration that was to be received by the Standard Plans.[35] Northwestern Trust also states that it advised Standard that the only Standard Plan for which a distribution of Holding Company Stock would exceed the 10 percent limitation imposed by section 407(a)(2) of the Act was Standard's Group Life Plan which had no other assets.

Northwestern Trust represents that the transactions were prudent and in the best interests of the Standard Plans and their participants and beneficiaries because the consummation of the transactions was conditioned upon approval of Standard's Eligible Members, an overwhelming majority of whom approved the Demutualization Plan on March 19, 1999, as well as other conditions set forth in the Demutualization Plan. In addition, Northwestern Trust states that its determination that the transactions were appropriate for the Standard Plans was based upon its review of all of the facts and circumstances surrounding the transactions, including documentation and records prepared in connection with the transactions. Based upon this information, Northwestern Trust determined that approval of the Demutualization Plan would be in the best interests of all of the Standard Plans and their participants and beneficiaries. Accordingly, Northwestern Trust explains that it voted in favor of the Demutualization Plan and directed the appropriate fiduciaries of the Standard Plans to receive and hold title to the Holding Company Stock when issued.

13. In connection with the disposition of Holding Company Stock that was held by the Standard Plans, Northwestern Trust directed that such shares be repurchased by the Holding Company as follows:

(a) *The Standard Defined Contribution Plans.* The Standard Defined Contribution Plan-Employees and the Standard Defined Contribution Plan-Agents received a total of 44,610 shares of Holding Company Stock as a result of the demutualization. The

Plan is the ''Owner'' of the policy and that ''The Owner of a Policy shall be shown on the Company's records.'' Standard further represents that an insurance or annuity policy that provides benefits under an employee benefit plan, typically designates the employer that sponsors the plan, or a trustee acting on behalf of the plan, as the owner of the policy. In regard to insurance or annuity policies that designate the employer or trustee as owner of the policy, Standard represents that it was required under the foregoing provisions of Oregon Law and the Demutualization Plan to make distributions resulting from such Plan to the employer or trustee as owner of the policy, except as provided below.

In general, it is the Department's view that, if an insurance policy (including an annuity contract) is purchased with assets of an employee benefit plan, including participant contributions, and if there exist any participants covered under the plan (as defined at 29 CFR 2510.3–3) at the time when Standard incurred the obligation to distribute Holding Company Stock, Cash or policy credits, then such consideration would constitute an asset of such plan. Under these circumstances, the appropriate plan fiduciaries must take all necessary steps to safeguard the assets of the plan in order to avoid engaging in a violation of the fiduciary responsibility provisions of the Act.

[35] Indeed, the Independent Fiduciary Agreement requires that Northwestern Trust make an election available under the Demutualization Plan with respect to the form of consideration that is to be received by each of the Standard Plans.

Holding Company Stock held by these Standard Plans was repurchased by the Holding Company for cash in four equal weekly installments occurring on November 4, 1999, November 10, 1999, November 18, 1999 and November 24, 1999 at the closing market prices on those dates. In this regard, on November 4, 1999, the Standard Defined Contribution Plans sold 11,152 shares of Holding Company Stock to the Holding Company for a closing price of $24.625 per share. On November 10, 1999, the Standard Defined Contribution Plans sold another 11,152 shares of Holding Company Stock to the Holding Company for a closing price of $23.625 per share. On November 18, 1999, the Standard Defined Contribution Plans sold 11,153 shares of Holding Company Stock to the Holding Company at a closing price of $25.50 per share. Finally, on November 24, 1999, the Standard Defined Contribution Plans sold 11,153 shares of Holding Company Stock to the Holding Company at the closing price of $28.188 per share.

(b) *The Standard Defined Benefit Plans.* The Standard Defined Benefit Plan-Employees and the Standard Defined Benefit-Agents received 26,127 shares and 4,389 shares, respectively, as a result of the demutualization. These shares were repurchased by the Holding Company on November 4, 1999 at the closing market price per share of $24.625.

(c) *The Standard Group Life Plan.* In Standard's demutualization, the Standard Group Life Plan received 29,562 shares of Holding Company Stock.[36] On November 4, 1999, 23,490 shares of Holding Company Stock that were held by the Standard Group Life Plan were repurchased by the Holding Company at the closing market price of $24.625 per share. On November 11, 1999, the remaining 5,632 shares of Holding Company Stock that were held by the Standard Group Life Plan and which had been transferred to a voluntary beneficiary employee association, were sold to the Holding Company at the closing price of $23.562 per share.

No commissions or other fees were charged to the Standard Plans with respect to each repurchase transaction. Proceeds from the sale were deposited with each Standard Plan and distributed or allocated by Northwestern Trust.

Standard represents that statutory exemptive relief under section 408(e) of the Act will cover the repurchase of shares of Holding Company Stock by each of the Standard Plans. Therefore, it has not requested administrative exemptive relief from the Department.[37]

14. In summary, it is represented that the transactions satisfied or will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The Plan of Demutualization, which was being implemented pursuant to stringent procedural and substantive safeguards imposed under Oregon law and supervised by the Director, will not require any ongoing involvement by the Department.

(b) One or more independent Plan fiduciaries had an opportunity to determine whether or not to vote to approve the terms of the Demutualization Plan and was solely responsible for all such decisions.

(c) The exemption allowed Eligible Members that were Plans to acquire Holding Company Stock, Cash or Policy Credits in exchange for their membership interests in Standard and neither Standard nor its affiliates exercised any discretion nor provided ''investment advice'' within the meaning of 29 CFR 2510.3–21(c) with respect to such acquisitions.

(d) No Eligible Member paid any brokerage commissions or fees in connection with such Eligible Member's receipt of Holding Company Stock, nor did (or will) an Eligible Member pay any brokerage commissions or fees with respect to the implementation of the Program.

(e) Each Eligible Member that was a Plan had an opportunity to comment on the Demutualization Plan and to vote to approve such Plan after receiving full and complete disclosure of its terms.

(f) The Director made an independent determination that the Demutualization Plan was in the interest of all of Standard's policyholders, including Plans.

(g) The Plan of Demutualization did not change and will not change premiums or reduce policy benefits, values, guarantees or other policy obligations of Standard to its policyholders or contractholders.

Notice to Interested Persons

Standard will provide notice of the proposed exemption to Eligible Members which are Plans within 14 days of the publication of the notice of pendency in the **Federal Register**. Such notice will be provided to interested persons by first class mail and will include a copy of the notice of proposed exemption as published in the **Federal Register** as well as a supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2) which shall inform interested persons of their right to comment on the proposed exemption. Comments with respect to the notice of proposed exemption are due within 44 days after the date of publication of this pendency notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and

[36] As noted previously, it is believed that shares of Holding Company Stock attributed to the Standard Disability Plan were determined not to be ''plan assets'' and thus, were distributed to Standard.

[37] The Department again expresses no opinion on whether the sale of Holding Company Stock by any of the Standard Plans described above satisfied the terms and conditions of section 408(e) of the Act.

that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 18th; day of May, 2000.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits, Administration U.S. Department of Labor.

[FR Doc. 00–12948 Filed 5–22–00; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2000–21; Exemption Application No. D–10777, et al.]

Grant of individual exemptions; Texas Iron Workers and Employers Apprenticeship Training and Journeyman Upgrading Fund (the Plan)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Texas Iron Workers and Employers Apprenticeship Training and Journeyman Upgrading Fund (the Plan), Located in San Antonio, Texas

[Prohibited Transaction Exemption 2000–21; Exemption Application No. D–10777]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act shall not apply to the purchase of a classroom/office building and a shop building (together, the Buildings) and an adjacent lot (the Adjacent Lot) by the Plan from Local Union No. 66 of the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, for $63,000, provided that: (a) The purchase is a one-time transaction for cash, and no commissions are paid by the Plan with respect to the transaction; (b) the Plan pays a price for the Buildings and the Adjacent Lot (collectively, the Properties) that is no more than the fair market value of the Properties at the time of the transaction, as determined by a qualified, independent appraiser; (c) the Plan's independent fiduciary has determined that the transaction is appropriate for the Plan and in the best interests of the Plan and its participants and beneficiaries; and (d) the Plan's independent fiduciary monitors the purchase of the Properties by the Plan and takes whatever action is necessary to safeguard the interests of the Plan and its participants and beneficiaries.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on March 22, 2000 at 65 FR 15367.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Bankers Trust Company (BTC), Located in New York, New York

[Prohibited Transaction Exemption 2000–22; Application No. D–10838]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to: (1) The granting to BTC (a) by the Cheslock-Bakker Opportunity Fund, L.P. (the LP) of security interests in (i) the capital commitments and capital contributions (Capital Contributions) of certain employee benefit plans (the Plans) investing in the LP and (ii) a borrower collateral account to which all Capital Contributions will be deposited when paid and (b) by the LP and by its general partner, CBA Real Estate Partners, LLC, a Delaware limited liability company, of the right to make calls for cash contributions (Contribution Calls) under the Cheslock-Bakker Opportunity Fund, L.P. Limited Partnership Agreement, where BTC is the representative of certain lenders (the Lenders) that will fund a so-called ''credit facility'' providing credit to the LP, and where the Lenders are parties in interest with respect to the Plans; and (2) the execution of a partner agreement and estoppel (the Estoppel) under which the Plans agree to honor the Contribution Calls; provided that (a) the grants and Estoppels are on terms no less favorable to the Plans than those which the Plans could obtain in arm's-length transactions with unrelated parties; (b) the decisions on behalf of each Plan to invest in the LP and to execute such Estoppels in favor of BTC are made by a fiduciary which is not included among, and is independent of and unaffiliated with, the Lenders and BTC; (c) with respect to Plans that have invested or may invest in the LP in the future, such Plans have or will have assets of not less than $100 million and not more than 5% of the assets of any such Plan are or will be invested in the LP. For purposes of this condition (c), in the case of multiple plans maintained by a single employer or single controlled group of employers, the assets of which are invested on a commingled basis, (*e.g.,* through a master trust), this $100 million threshold will be applied to the aggregate assets of all such plans; and (d) the general partner of the LP must be

independent of BTC, the Lenders and the Plans.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on March 14, 2000 at 65 FR 13855.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Bay Internists, Inc. Profit Sharing Plan (the Plan) Located in Kilmarnock, Virginia

[Prohibited Transaction Exemption 2000–23; Exemption Application No. D–10847]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale by the Plan of certain unimproved real property (the Property) located in Kilmarnock, Virginia, to Bay-Med, a general partnership which is a party in interest with respect to the Plan, provided that the following conditions are satisfied:

(a) The proposed sale is a one-time cash transaction;

(b) The Plan receives the current fair market value for Property, as established at the time of the sale by an independent, qualified appraiser; and

(c) The Plan pays no commissions or other expenses associated with the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on March 14, 2000 at 65 FR 13858.

For Further Information Contact: Ekaterina A. Uzlyan of the Department at (202) 219–8883. (This is not a toll-free number.)

Foodcraft, Inc. Defined Benefit Plan (the Plan) Located in Los Angeles, California

[Prohibited Transaction Exemption 2000–24; Exemption Application No. D–10864]

Exemption

The restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale (the Sale) of certain improved real property (the Property) by the Plan to the trustees of the Plan, Ernest Lieblich and Caryl Lieblich (collectively, the Trustees), parties in interest and disqualified persons with respect to the Plan, provided that the following conditions are met:

(a) All terms and conditions of the Sale are no less favorable to the Plan than those which the Plan could obtain in an arm's length transaction with an unrelated party;

(b) The Trustees will purchase the Property from the Plan for the greater of $315,000 or the Property's fair market value as of the date of the transaction as determined by a qualified, independent appraiser;

(c) The Sale will be a one-time transaction for cash; and

(d) The Plan will pay no fees or commissions in connection with the Sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on March 22, 2000 at 65 FR 15369.

For Further Information Contact: Mr. J. Martin Jara, U.S. Department of Labor, telephone (202) 219–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 18th day of May, 2000.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 00–12947 Filed 5–22–00; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On April 11th and April 13, 2000, the National Science Foundation published notices in the **Federal Register** of permit applications received. Permits were issued on May 15, 2000 to the following applicant:

Anne A. Sturz: Permit No. 2001–006
Rudolf S. Scheltema: Permit No. 2001–007

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 00–12934 Filed 5–22–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Wednesday, May 31, 2000.

PLACE: NTSB Board Room, 429 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

7009A—Marine Accident Report: Ramming of the Eads Bridge by Barges in Tow of the M/V Anne Holly with Subsequent Ramming and near breakaway of the President of the Casino on the Admiral, St. Louis, Missouri, on April 4, 1998.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

Individuals requesting specific accommodation should contact Mrs. Barbara Bush at (202) 314–6220 by Friday, May 26, 2000.

FOR MORE INFORMATION CONTACT: Rhonda Underwood (202) 314–6065.

Dated: May 19, 2000.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 00–13091 Filed 5–19–00; 2:58 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–311]

Public Service Electric and Gas Company; Notice of Consideration of Issuance of Amendment To Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–75 issued to Public Service Electric and Gas Company (the licensee), for operation of the Salem Nuclear Generating Station, Unit No. 2 (Salem Unit No. 2), located in Salem County, New Jersey.

The proposed amendment would modify the requirements contained in the Salem Unit No. 2 Technical Specifications regarding the operation of the movable incore detector system. The proposed change would be a one-time change to allow use of the movable incore detector system for measurement of core peaking factors with less than 75% and greater than or equal to 50% of the detector thimbles available. The licensee has submitted this request in response to degradation of the Salem Unit No. 2 movable incore detector system. There are currently 75.8% of the detector thimble locations available for use. The proposed changes would allow continued operation of Salem Unit No. 2 through the remainder of Cycle 11.

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.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The movable incore detector system is used only to provide confirmatory information on the neutron flux distribution of the core. This system does not provide any automatic control functions or protective functions for the operation of the plant. The only accident that the movable incore detector system could be involved in is the breaching of the detector thimbles which is bounded by the small break loss of coolant accident (LOCA) analysis. As the proposed changes do not involve any changes to the physical equipment or operation of the system, there is no increase in the probability of an accident previously evaluated.

The movable incore detector system provides a monitoring function that is not used for accident mitigation. The small break LOCA analysis continues to bound potential breaching of the system's detector thimbles. With less than 75% but greater than or equal to 50% of the detector thimbles available, core peaking factor measurement uncertainties will be increased. This can impact core peaking factors and as a result could affect the consequences of certain accidents. However, any changes in the core peaking factors resulting from increased measurement uncertainties will be compensated for by conservative measurement uncertainty adjustments in the Technical Specifications to ensure that pertinent core design parameters are maintained. Sufficient additional penalty is added to the power distribution measurements such that this change will not impact the consequences of any accident previously evaluated.

Therefore, the proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously analyzed.

There are no changes to the physical plant or operation of the movable incore systems as a result of the proposed changes. Since no changes are being made to the way the system is operated and no changes are being made to the system equipment, no new accidents or different accidents than previously analyzed are introduced by the proposed changes.

Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously analyzed.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The reduction in the minimum complement of equipment necessary for the operability of the movable incore detector system only impacts the monitoring and calibration functions of the system. Reduction of the number of available moveable incore detector thimbles to the 50% level does not significantly degrade the ability of the system to measure core power distributions. With less than 75% but greater than or equal to 50% of the detector thimbles available, core peaking factor measurement uncertainties will be increased but will be compensated for by conservative measurement uncertainty adjustments in the Technical Specifications to ensure that pertinent core design parameters are maintained. Sufficient additional penalty is added to the power distribution measurements such that this change does not impact the safety margins that currently exist. Also, the reduction of available detector thimbles has negligible impact on the quadrant power tilt and core average axial power shape measurements and will not adversely affect excore detector calibration. Sufficient detector thimbles will be available to ensure that no quadrant will be unmonitored.

Based on the above, the proposed changes will not result in a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to

take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 22, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

Non-timely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding 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).

For further details with respect to this action, see the application for amendment dated April 10, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 17th day of May.

For the Nuclear Regulatory Commission.

Robert J. Fretz,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–12963 Filed 5–22–00; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Actuarial Advisory Committee With Respect to the Railroad Retirement Account; Notice of Public Meeting

Notice is hereby given in accordance with Public Law 92–463 that the Actuarial Advisory Committee will hold

a meeting on May 25, 2000, at 10:30 a.m. at the office of the Chief Actuary of the U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, on the conduct of the 21st Actuarial Valuation of the Railroad Retirement System. The agenda for this meeting will include a discussion of the results and presentation of the 21st Actuarial Valuation. The text and tables which constitute the Valuation will have been prepared in draft form for review by the Committee. It is expected that this will be the last meeting of the Committee before publication of the Valuation.

The meeting will be open to the public. Persons wishing to submit written statements or make oral presentations should address their communications or notices to the RRB Actuarial Advisory Committee, c/o Chief Actuary, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

Dated: May 11, 2000.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 00–12866 Filed 5–22–00; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24456; File No. 812–12092]

Northbrook Life Insurance Company, et al.

May 16, 2000.

AGENCY: Securities and exchange Commission (''Commission'')

ACTION: Notice of application for an order pursuant to Section 11(a) of the Investment Company Act of 1940 (the ''Act'') approving the terms of an offer of a Longevity Reward Rider to owners of certain variable annuity contracts (the ''Contracts'').

Applicants: Northbrook Life Insurance Company (''Northbrook''), Northbrook Life Insurance Company Variable Annuity Accout II (''Account II''), and Dean Witter Reynolds Inc. (''Dean Witter'').

Summary of Application: Applicants seek an order approving the terms of a proposed offer to certain owners of the Contracts of a rider that (a) upon death of a Contract's owner, gives any surviving spouse theoption of continuing the Contract with a value equal to the death benefit then payable, (b) reduces or waives certain charges, and (c) imposes a new withdrawal charge on purchase payments made before or after the rider's issue date (the ''Rider Date'').

Filing Date: The application was filed on May 15, 2000.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on June 7, 2000, and should be accompanied by proof of service on Applicants in the form of an affidvit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC. 20549–0609. Applicants, Bruce A. Teichner, Esq., Associate Counsel, Allstate Life Insurance Company, 3100 Sanders Road, Northbrook, Illinois 60062.

FOR FURTHER INFORMATION CONTACT: Ann L. Vlcek, Senior Counsel, Michael D. Pappas, Senior Counsel, or William J. Kotapish, Assistant Director, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, N.W., Washington, DC. 20549–0102, (202) 942–8090.

Applicant's Representations

1. Northbrook is a wholly-owned subsidiary of Allstate Life Insurance company (''Allstate Life''). Allstate Life is an indirect subsidiary of The Allstate Corporation, a publicly-traded insurance holding company. Northbrook is Account II's depositor within the meaning of the Act.

2. Dean Witter is a wholly-owned subsidiary of Morgan Stanley Dean Witter & Co., a publicly-traded financial services company. Dean Witter is the principal underwriter of Account II. Dean Witter is registered as a broker-dealer under the Securities Exchange Act of 1934 (File No. 9–14172).

3. Account II is registered under the Act as a unit investment trust (File No. 811–6116). Account II funds the Morgan Stanley Dean Witter Variable Annuity II Contracts (defined above as the ''Contracts'') that Northbrook and Dean Witter have offered and sold for a number of years.

4. The Contracts, which are registered under the Securities Act of 1933 (File No. 033–35412), are deferred annuity contracts under which Contract owners may make one or more purchase payments over a period of time (called the ''accumulation phase''). During the accumulation phase, the Contract owner's purchase payments, after deduction of certain charges, earn (at the owner's election) a ''variable'' return based on the investment performance of one or more of Account II's subaccounts and/or a fixed rate of return that Northbrook declares from time to time.

5. At the end of the accumulation phase, the Contract owner elects whether to receive a ''lump sum'' payment of the Contract's accumulated value, or to receive that value under one of several payment options that Northbrook offers. Payment options are available on a variable and/or fixed basis. The Contracts incorporate many other features, including several ''death benefit'' options, partial withdrawal rights, full surrender rights, transfer privileges, and other optional rider benefits.

6. The Contracts currently impose a withdrawal charge of up to 6% of any amount by which purchase payments withdrawn in any year exceed 15% of the cumulative purchase payments that had been made as of the beginning of that year (the ''annual free withdrawal amount''). The withdrawal charge associated with each purchase payment declines 1% each year until it is 0% beginning in the seventh year after the payment was made. Unused portions of the annual free withdrawal amount do not carry over to future years.

7. The Contracts also impose an annual Contract maintenance charge of $30, a $25 charge applicable to certain transfers in excess of twelve during a one-year period (which is currently being waived), a daily administrative charge at an annual rate of 0.10% of the Contract's value in Account II, a mortality and expense risk charge at an annual rate of 1.25% of the Contract's value in Account II (or higher if certain optional rider benefits are selected), and a charge corresponding to any applicable state premium taxes.

8. Northbrook now proposes to offer a Longevity Reward Rider (the ''LRR'') to owners of certain outstanding Contracts. The LRR provides additional Contract benefits. The benefits under the LRR include: (a) An option whereby a deceased owner's surviving spouse may continue the Contract using the then-current death benefit value as the new Contract value, if higher, rather

than the current Contract value; (b) a reduced mortality and expense risk charge (*i.e.,* at an annual rate that is .07% less than the rate that otherwise would apply); (c) a permanent waiver of the $30 annual Contract maintenance charge if the Contract's value exceeds $40,000 at any time; and (d) a reduction in the withdrawal charge that will apply to the withdrawal of any purchase payments that are made after the LRR is added to the Contract.

9. Contract owners who elect the LRR will have a new three year withdrawal charge schedule that will apply to withdrawals made after the Rider Date. The new schedule would apply to any amount of such a subsequent withdrawal of purchase payments that exceeds the 15% annual free withdrawal amount, regardless of whether such withdrawn purchase payments were made before or after the Rider Date.

10. The withdrawal charge under the new withdrawal charge schedule will begin at 3% and decline by 1% per year over three years to 0% by the end of the third year. For purchase payments made prior to the rider Date, the three year period runs from the Rider Date. For any purchase payment made subsequent to the Rider Date, the three year period runs from the date of that payment.

11. The same exceptions to imposing the LRR withdrawal charge will apply as apply to the Contract's basic withdrawal charge. Specifically, no LRR withdrawal charge will be imposed at the time a payment option commences, upon the death of a Contract owner or annuitant, upon amounts withdrawn to satisfy any applicable minimum distribution requirements under the Internal Revenue Code, or upon amounts withdrawn that are within the 15% annual free withdrawal amount. These are the same exceptions as would apply to the Contracts without the LRR.

12. The LRR will be offered only to Contract owners who have maintained their existing purchase payments in their Contracts for at least six years. Accordingly, no amount of withdrawal charge will remain on any purchase payments made prior to the Rider Date.

13. Contract owners will not be permitted to elect for the LRR to apply to part of a Contract and not to the rest. Any election of the LRR must apply to the whole Contract.

14. Applicants state that the principal purpose of offering the LRR is to reward the eligible Contract owners for their persistency. In addition, the LRR allows Northbrook to maintain the Contract on a competitive footing with other newer variable annuity contracts in the marketplace that offer the same or similar benefits.

15. After an initial notification of the offer in the Contract prospectus or other communication to Contract owners by Dean Witter's registered representatives, the LRR will be offered by providing eligible owners who express an interest in learning the details of the offer, in addition to such prospectus, a separate document explaining the offer (''the Officer Document'').

16. The Offering Document will advise such Contract owners that the offer is specifically designed for those Contract owners who intend to continue to hold their Contracts as long-term investment vehicles. The Offering Document will state that the offer is not intended for all Contract owners, and that it is especially not appropriate for any Contract owner who anticipates surrendering all or a significant part of his or her Contract within the next three years. In this regard, the Offering Document will encourage Contract owners to carefully evaluate their personal financial situation when deciding whether to accept or reject the offer of the LRR. In addition, the Offering Document will explain how an owner of a Contract contemplating acceptance of the LRR may avoid the LRR withdrawal charge if no more than the annual 15% free withdrawal amount is withdrawn in any one year and any subsequent purchase payments are maintained until expiration of the applicable LRR withdrawal charge period. In this regard, the Offering Document will state in clear plain English that, if a significant amount of the Contract's value is surrendered or withdrawn during the three years following the Rider Date: (a) the LRR's benefits may be more than offset by the LRR withdrawal charge; and (b) a Contract owner may be worse off than if he or she had rejected the offer.

17. To accept the LRR, an owner must complete an internal election form. This election form will include the disclosure set forth in Condition No. 1 under ''Applicant' Conditions'' below.

18. The compensation to registered representatives who offer the LRR to Contract owners is expected to take the form of annual ''trail'' commissions equal to approximately 0.70% of the Contract's average value. On the sale of a new Contract, the registered representative would currently earn a commission equal to approximately 5% of purchase payments made, plus annual trail commission of approximately .10%.

19. The Contracts provide a basic death benefit equal to the highest of (a) the Contract's accumulated value; (b) the cumulative amount of all purchase payments made to date (with approximate adjustment for any partial withdrawals that have been made); and (c) the Contract's accumulated value on the most recent death benefit anniversary, which are every sixth anniversary of a Contract's issuance beginning with the sixth, with appropriate adjustment for subsequent purchase payments and partial withdrawals. The Applicants assert that this basic death benefit can be of quite significant value to a Contract Owner and that it can reasonably be expected that, in many cases where an owner has died, the death benefit will exceed the Contract's then accumulated value. The Applicants maintain, therefore, that the LRR could have considerable value for a surviving spouse who wishes to continue the Contract.

20. The .07% reduction in the mortality and expense risk charge and, in cases involving more than $40,000 of Contract value, the waiver of the $30 annual charge that otherwise would apply are further benefits that the LRR would provide. These benefits are guaranteed and cannot be reduced or withdrawn. In particular, if the Contract value ever exceeds $40,000 at any time following the Rider Date, the $30 charge will be waived for the remaining duration of the Contract, even if its value subsequently falls below $40,000.

21. Finally, additional purchase payments made after the LRR is added to a Contract will be subject only to the 3%/3-year withdrawal charge schedule provided for in that rider, rather than the Contract's regular 6%/6-year withdrawal charge schedule that would have applied to those same purchase payments if the LRR had not been added to the Contract. Applicants assert that this is a substantial benefit to any Contract owner, including a surviving spouse, who may have an interest in making further purchase payments.

Applicants' Legal Analysis

1. Section 11(a) of the Act makes it unlawful for any registered open-end company, or any principal underwriter for such a company, to make or cause to be made an offer to the holder of a security of such company, or of any other open-end investment company, to exchange that security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities, unless the terms of the offer have first been submitted to and approved by the Commission.

2. section 11(c) of the Act, in pertinent part, requires, in effect, that any offer of exchange of the securities of

a registered unit investment trust for the securities of any other investment company be approved by the Commission regardless of the basis of the exchange.

3. Standing alone, Section 11(a) by its terms applies only to exchanges of securities issued by ''open-end'' investment companies, which, under Section 5(a)(1) of the Act, includes only management-type investment companies. Account II itself, as noted above, is a unit investment trust-type (rather than a management-type) of investment company under Section 4(2) of the Act. It would appear, therefore, that Section 11 could require Commission approval for Applicants' offer of the LRR only if that falls within the ambit of Section 11(c).

4. Applicants do not conceded that their offer of the LRR to existing Contract owners necessarily constitutes an offer of securities of a registered unit investment trust in exchange for securities of any other investment company within the purview of Section 11(c). Nor do Applicants concede that, for purposes of Section 11, a Contract with the LRR is a different security than a contract without the LRR. Nevertheless, Applicants request an exemption pursuant to Section 11(a) of the Act to the extent deemed necessary to permit the offer of the LRR as described herein.

5. Applicants have considered whether they could rely on Rule 11a-2 under the Act. Applicants believe and represent that the only provision in Rule 11a-2 that could prevent such reliance would be the so-called ''tacking'' requirement in Rule 11a-2(d)(1). Applicants state that since the LRR withdrawal charge continues for only three years, and since the most recent purchase payment made by Contract owners who are eligible for the LRR was made at least six years prior to the Rider Date, the tracking requirement effectively would prohibit the imposition of any portion of the LRR's withdrawal charge with respect to purchase payments made prior to the Rider Date. For that reason, Applicants have concluded that Rule 11a-2 is unavailable to them.

6. Congress enacted Section 11 to prevent ''switching,'' *i.e.,* the practice of inducing security holders of one investment company to exchange their securities for those of a different investment company solely for the purpose of exacting additional selling charges. Applicants assert that the LRR would not involve ''switching.'' Applicants maintain, to the contrary, that the purpose of the LRR is to enable Contract owners to enhance their Contracts through the rider without having to buy a new variable annuity contract. Applicants represent that because the LRR provides clear benefits, as described above, the LRR's sole purpose is not to exact additional selling charges (or any other type of charge).

7. Applicants state that the LRR would not result in any duplicative charges. Applicants represent that the limited withdrawal charge provided under the LRR is reasonable in relation to the benefits that the rider provides and the costs that Applicants will incur in providing those benefits. Those costs will include costs of developing and administering the LRR, the direct dollar costs of the charges that will be waived or reduced and the benefits that will be paid under the LRR, and the costs of distributing the LRR to Contract owners and educating them about it.

8. Applicants represent that any possible withdrawal charge under the LRR is modest in amount. Applicants state that, if the Contract owner makes no withdrawals during the three years after the Rider Date, there is no possibility that any withdrawal charge will ever be deducted that exceeds what would have been deducted absent the LRR. Applicants also state that even if purchase payments are withdrawn during that three year period, the LRR withdrawal charge will apply only if more than the 15% annual free withdrawal amount is withdrawn in any year.

9. The LRR will be offered only to Contract owners who already have demonstrated an inclination to maintain their Contracts for substantial periods of time. Applicants believe that the income taxes that are generally payable when earnings are withdrawn from a Contract, as well as the tax penalties that may apply if those withdrawals are made prior to the owner's reaching age 59½, serve as additional motivations that cause most owners to hold their Contracts for a substantial number of years (and often until retirement).

10. Applicants state that any withdrawal charge will be waived for withdrawals of any amounts necessary to meet any federal tax law minimum distribution requirements applicable to a Contract.

11. Under all these circumstances, Applicants believe that, as a practical matter, few owners that add the LRR to their Contracts will ever actually pay any additional withdrawal charges as a result; and to the extent that the LRR succeeds in its purpose of maintaining the Contracts on a competitive footing in the marketplace, withdrawals should be even further reduced.

12. Applicants state that except for the withdrawal charge as described above, the LRR will not result in any increase in or imposition of any charge. Accordingly, Applicants assert that except for the potential imposition of the LRR withdrawal charge on certain withdrawals that occur within three years after the Rider Date, every aspect of a Contract will be at least as favorable after the LRR is added as it was before. Applicants maintain that adding the LRR to a Contract will have no adverse tax consequences to a Contract's owner.

13. In light of these considerations, Applicants do not believe there is any public policy or purpose under Section 11 (or otherwise) that would preclude offering the LRR on the terms and subject to the conditions stated herein.

Applicants' Conditions

Applicants consent to the following conditions:

1. The Offering Document will contain concise, plain English statements that: (a) the LRR is suitable only for Contract owners who expect to hold their Contracts as long term investments; and (b) if a significant amount of the Contract's value is surrendered or withdrawn during the first three years after the Rider Date, the LRR's benefits may be more than offset by that charge, and a Contract owner may be worse off than if he or she had rejected the LRR.

2. The Offering Document will disclose in concise plain English the only aspect in which adding the LRR rider could disadvantage a Contract owner (i.e., through the possible imposition of the LRR withdrawal charge).

3. A Contract owner choosing to add the LRR will complete and sign the election form, which will prominently restate in concise, plain English the statements required in Condition No. 1, and will return it to Northbrook. If the election form is more than two pages long, Northbrook will use a separate document to obtain the Contract owner's acknowledgment of the statements referred to in Condition No. 1 above.

4. Applicants will maintain and make available the following separately identifiable records, for the time periods specified below, for review by the Commission upon request: (a) Northbrook will maintain records showing the level of LRR purchases and how it relates to the total number of Contract owners eligible to acquire the LRR (at least quarterly as a percentage of the number eligible); (b)(i) Northbrook will maintain copies of any form of Offering Document, prospectus

disclosure, election form, acknowledgment form, or offering letter, regarding the offering of the LRR, including the dates(s) used, and (ii) Dean Witter will maintain copies of any other written materials or scripts for presentations used by registered representatives regarding the LRR, including the dates used; (c) records showing information about each LRR purchase that occurs, including (i) the following information to be maintained by Northbrook: The name of the Contract owner; the Contract number; the election form (and separate acknowledgment form, if any, used to obtain the Contract owner's acknowledgment of the statements required in Condition No. 1 above), including the date such election or acknowledgment form was signed; the date of birth, address and telephone number of the Contract owner; the issue date of the LRR; the amount of the Contract's value on that date; and persistency information relating to the Contract (date of any subsequent withdrawals and withdrawal charges paid); and (ii) the following information to be maintained by Dean Witter: The name of the Contract owner, the Contract number, the registered representative's name, CRD number, firm affiliation, branch office address and telephone number; the name of the registered representative's broker-dealer; and the amount of commissions paid to the registered representative that relates to the LRR; and (d) each of Northbrook and Dean Witter will maintain logs showing any Contract owner complaints received by it about the LRR, state insurance department inquiries to it about the LRR, or litigation, arbitration or other proceedings to which it is a party regarding the LRR.

5. Applicants will include the following information on the logs referred to in Condition No. 4(d) above: date of complaint or commencement of proceeding; name and address of the person making the complaint or commencing the proceeding; nature of the complaint or proceeding; and persons named or involved in the complaint or proceeding.

6. Applicants will retain (i) the records specified in Condition Nos. 4(a) and (d) above for six years from creation of the record; (ii) the records specified in Condition No. 4(b) above for six years after the date of last use; and (iii) the records specified in Condition No. 4(c) for five years from the Rider Date. The records referred to in these conditions will be prepared and retained, for the periods specified herein, by Northbrook and Dean Witter. Nevertheless, upon request of the Commission or its staff, Northbrook and Dean Witter shall coordinate the prompt assembly of such records for review at a single easily accessible location.

Conclusion

For the reasons discussed above, Applicants submit that the LRR offer is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants submit that the requested order should therefore be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–12865 Filed 5–22–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42784; File No. SR–CHX–00–12]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Chicago Stock Exchange, Incorporated Relating to Fees for the E-Session

May 15, 2000.

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 May 1, 2000, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On May 15, 2000, the Exchange amended the proposal. [3] The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the CHX under Section 19(b)(3)(A)(ii) of the Act,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* May 12, 2000 letter from Kathleen M. Boege, Associate General Counsel, CHX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, SEC (''Amendment No. 1''). Amendment No. 1 states that the subject E-Session credit will be available through October 1, 2000.

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its membership dues and fees schedule (the ''Schedule'') to provide Exchange specialists and floor brokers with a credit of $.25 per trade executed during the Exchange's extended hours trading session (''E-Session'') [5] through October 1,200. The text of the proposed rule change is below. Additions are in italics. Deletions are in brackets.

MEMBERSHIP DUES AND FEES

* * * * *

M. Credits

1. Specialist Credits

Total monthly fees owned by a specialist to the Exchange will be reduced (but to no less than zero) by the application of the following [transaction] credits:

a. No change.

b. No change.

c. E-Session Credits. A credit of $.25 per trade executed during the E-Session. This credit shall be available through October 1, 2000.

2. Floor Broker Credits.

a. No change.

b. No change.

c. E-Session Credits. Total monthly fees owned by a floor broker to the Exchange will also be reduced (but to no less than zero) by the application of an E-Session Credit. ''E-Session Credit'' means a credit of $.25 per trade executed during the E-Session. This credit shall be available through October 1, 2000.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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

[5] On October 13, 1999, the Commission approved, on a pilot basis, the CHX's proposed rule change that allowed the CHX to implement an extended hours trading session. *See* Securities Exchange Act Release No. 42004 (October 13, 1999), 64 FR 56548 (October 20, 1999) (SR–CHX–99–16). The E-Session is currently approved to continue through October 1, 2000. *See* Securities Exchange Act Release No. 42463 (February 28, 2000), 65 FR 11817 (March 6, 2000) (SR–CHX–00–02).

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On October 29, 1999, the Exchange implemented the E-Session, which permits investors to submit limit orders for execution until 5:30 p.m., Central Time. To encourage members to seek additional order flow during the E-Session, the Exchange developed an E-Session credit program, necessitating a change to the Schedule. The proposal amends the Schedule to provide Exchange specialists and floor brokers with a credit of $.25 per trade executed during the E-Session through October 1, 2000.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act [6] in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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 solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [7] and subparagraph (f)(2) of Rule 19b–4 thereunder,[8] because it involves a due, fee, or other charge. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[9]

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] The Commission notes that the proposal may raise questions concerning payment for order flow. To the extent that it does raise such issues, exchange members should consider best execution and disclosure obligations they may have under the federal securities laws in general, and particularly under Rules 10b–10 and 11Ac1–3 under the Act. 17 CFR 240.10b–10 and 17 CFR 240.11Ac1–3, respectively.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR–CHX–00–12, and should be submitted by June 13, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–12928 Filed 5–22–00; 8:45 am]

BILLING CODE 8010–01–M

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42790; File No. SR–NASD–00–27]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc., Amending the Nasdaq By-Laws and Restated Certificate of Incorporation

May 16, 2000.

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 May 11, 2000, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary The Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to amend its By-Laws and Restated Certificate of Incorporation. Additions are italicized, deletions are bracketed.

By-Laws of the NASDAQ Stock Market, Inc.

Article I Definitions

When used in these By-Laws, unless the context otherwise requires, the term:

* * * * *

(i) ''Director'' means a member of the Board[, excluding the Chief Executive Officer of the NASD];

(j) ''Industry Director'' or ''Industry member'' means a Director (excluding the President *or the Chief Executive Officer*) or Nasdaq Listing and Hearing Review Council or committee member who (1) is or has served in the prior three years as an officer, director, or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer; (2) is an officer, director (excluding and outside director), or employee of an entity that owns more than ten percent of the equity of a broker or dealer, and the broker or dealer accounts for more than five percent of the gross revenues received by the consolidated entity; (3) owns more than five percent of the equity securities of any broker or dealer, whose investments in brokers or dealers exceed ten percent of his or her net worth, or whose ownership interest otherwise permits him or her to be engaged in the day-to-day management of a broker or dealer; (4) provides professional services to brokers or dealers, and such services constitute 20 percent or more of the professional revenues received by the Director or member or 20 percent or more of the gross revenues received by the Director's or member's firm or partnership; (5) provides professional services to a director, officer, or employee of a broker, dealer, or corporation that owns 50 percent or more of the voting stock of a broker or dealer, and such services relate to the director's, officer's, or employee's professional capacity and constitute 20

percent or more of the professional revenues received by the Director or member or 20 percent or more of the gross revenues received by the Director's or members's firm or partnership; or (6) has a consulting or employment relationship with or provides professional services to the NASD, NASD Regulation, Nasdaq, or Amex (and any predecessor) or has had any such relationship or provided any such services at any time within the prior three years;

* * * * *

(q) ''Non-Industry Director'' or ''Non-Industry member'' means a Director (excluding the President *or the Chief Executive Officer)* or Nasdaq Listing and Hearing Review Council or committee member who is (1) a Public Director or Public member; (2) an officer or employee of an issuer of securities listed on Nasdaq or Amex, or traded in the over-the-counter market; or (3) any other individual who would not be an Industry Director or Industry member;

* * * * *

(s) ''Public Director'' or ''Public member'' means a Director or Nasdaq Listing and Hearing Review Council or committee member who has no material business relationship with a broker or dealer or the NASD, NASD Regulation, or Nasdaq; [and]

(t) ''Rules of the Association'' or ''Rules'' means the numbered rules set forth in the NASD Manual beginning with the rule 0100 Series, as adopted by the NASD Board pursuant to the NASD By-Laws, as hereafter amended or supplemented [.]*;*

* * * * *

(w) ''Amex'' means American Stock Exchange LLC; *and*

(x) ''Amex Board'' means the Board of Governors of Amex [;].

Article III Meetings of [The Stockholder] Stockholders

Action by Consent of Stockholder

[Sec. 3.1 Any action required or permitted by law to be taken at any meeting of the stockholder of Nasdaq may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, is signed by the holder of the outstanding stock.]

Annual Meetings of Stockholders

Sec. 3.1 (a) Nominations of persons for election to the Board and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders only (i) pursuant to Nasdaq's notice of meeting (or any supplement thereto), (ii) by or at the direction of the Board or the National Nominating Committee or (iii) by any stockholder of Nasdaq who was a stockholder of record of Nasdaq at the time the notice provided for in this Section 3.1 is delivered to the Secretary of Nasdaq, who is entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 3.1.

(b) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to Section 3.1(a)(iii), the stockholder must have given timely notice thereof in writing to the Secretary of Nasdaq and any such proposed business other than the nominations of persons for election to the Board must constitute a proper matter for stockholder action. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of Nasdaq not later than the close of business on the ninetieth day nor earlier than the close of business on the one hundred twentieth day prior to the first anniversary of the preceding year's annual meeting (provided, however, that in the event that the date of the annual meeting is more than thirty days before or more than seventy days after such anniversary date, notice by the stockholder must be so delivered not earlier than the close of business on the one hundred twentieth day prior to such annual meeting and not later than the close of business on the later of the ninetieth day prior to such annual meeting or the tenth day following the day on which public announcement of the date of such meeting is first made by Nasdaq). For purposes of the first annual meeting of stockholders of Nasdaq held after 2000, the first anniversary of the 2000 annual meeting of stockholders shall be deemed to be _____, 2001. In no event shall the public announcement of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. Such stockholder's notice shall set forth: (i) as to each person whom the stockholder proposes to nominate for election as a director all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Act and Rule 14a–11 thereunder (and such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected); (ii) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes proposal to amend the By-Laws of Nasdaq, the language of the proposed amendment), the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (iii) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (A) the name and address of such stockholder, as they appear on Nasdaq's books, and of such beneficial owner, (B) the class and number of shares of capital stock of Nasdaq which are owned beneficially and of record by such stockholder and such beneficial owner, (c) a representation that the stockholder is a holder of record of stock of Nasdaq entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business or nomination, and (D) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (1) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of Nasdaq's outstanding capital stock required to approve or adopt the proposal or elect the nominee and/or (2) otherwise to solicit proxies from stockholders in support of such proposal or nomination. Nasdaq may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a director of Nasdaq.

(c) Notwithstanding anything in the second sentence of Section 3.1(b) to the contrary, in the event that the number of directors to be elected to the Board at an annual meeting is increased and there is no public announcement by Nasdaq naming the nominees for the additional directorships at least one hundred days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section 3.1 shall also be considered timely, but only with respect to nominees for the additional directorships, if it shall be delivered to the Secretary at the principal executive offices at Nasdaq not later than the close of business on the tenth day following the day on which such public announcement is first made by Nasdaq.

Special Meetings of Stockholders

Sec. 3.2 Only such business shall be conducted at a special meeting of

stockholders as shall have been brought before the meeting pursuant to Nasdaq's notice of meeting. Nominations of persons for election to the Board may be made at a special meeting of stockholders at which directors are to be elected pursuant to Nasdaq's notice of meeting (a) by or at the direction of the Board or the National Nominating Committee or (b) provided that the Board has determined that directors shall be elected at such meeting, by any stockholder of Nasdaq who is a stockholder of record at the time the notice provided for in this Section 3.2 is delivered to the Secretary of Nasdaq, who is entitled to vote at the meeting and upon such election and who complies with the notice procedures set forth in this Section 3.2. In the event Nasdaq calls a special meeting of stockholders for the purpose of electing one or more directors to the Board, any such stockholders entitled to vote in such election may nominate a person or persons (as the case may be) for election of such position(s) as specified in Nasdaq's notice of meeting, if the stockholders's notice required by Section 3.1(b) shall be delivered to the Secretary at the principal executive offices of Nasdaq not earlier than the close of business on the one hundred twentieth day prior to such special meeting and not later then the close of business on the later of the ninetieth day prior to such special meeting or the tenth day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board to be elected at such meeting. In no event shall the public announcement of an adjournment or postponement of a special meeting commerce a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

General

Sec. 3.3 (a) Only such persons who are nominated in accordance with the procedures set forth in this Article III shall be eligible to be elected at an annual or special meeting of stockholders of Nasdaq to serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Article III. Except as otherwise provided by law, the chairman of the meeting shall have the power and duty (a) to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in this Article III (including whether the stockholder or beneficial owner, if any, on whose behalf the nomination or proposal is made solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies in support of such stockholder's nominee or proposal in compliance with such stockholder's representation as required by Section 3.1(b)(iii)(D)) and (ii) if any proposed nomination or business was not made or proposed in compliance with this Article III, to declare that such nomination shall be disregarded or that such proposed business shall not be transacted. Notwithstanding the foregoing provisions of this Article III, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of Nasdaq to present a nomination or business, such nomination shall be disregarded and such proposed business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by Nasdaq.

(b) For purposes of this Article III, ''public announcement'' shall include disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by Nasdaq with the Commission pursuant to Section 13, 14, or 15(d) of the Act.

(c) Notwithstanding the foregoing provisions of this Article III, a stockholder shall also comply with all applicable requirements of the Act and the rules and regulations thereunder with respect to the matters set forth in this Article III. Nothing in Article III shall be deemed to affect any rights (i) of stockholders to request inclusion of proposals in Nasdaq's proxy stateement pursuant to Rule 14a–8 under the Act or (ii) of the holders of any series of Preferred Stock to elect directors pursuant to any applicable provisions of the Restated Certificate of Incorporation.

Conduct of Meetings

Sec. 3.4 The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announed at the meeting by the person presiding over the meeting. The Board may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board, the person presiding over any meeting of stockholders shall have the right and authority to convene and to adjourn the meeting, to prescribe such rules, regulations and procedurs and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board or prescribed by the presiding officer of the meeting, may include, without limitation, the following: (a) the establishment of an agenda or order of business for the meeting; (b) rules and procedures for maintaining order at the meeting and the safety of those present; (c) limitations on attendance at or participation in the meeting to stockholders of record of Nasdaq, their duly authorized and constituted proxies or such other persons as the chairman of the meeting shall determine; (d) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (e) limitations on the time allotted to questions or comments by participants. Unless and to the extent determined by the Board or the person presiding over the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

Article IV Board of Directors

General Powers

Sec. 4.1 No change.

Number of Directors

Sec. 4.2 The [Board shall consist of no fewer than five and no more than ten Directors, the exact number to] *exact number of members of the Board shall* be determined by resolution adopted by the [stockholder of Nasdaq from time to time. Notwithstanding the preceding sentence, the number of Directors shall equal the number of Directors on the NASD Regulation Board] *Board from time to time.* Any new Director position created as a result of an increase in the size of the Board shall be filed [pursuant to Section 4.4] *in accordance with the Restated Certificate of Incorporation.*

Qualifications

Sec. 4.3 Directors need not be stockholders of Nasdaq. [Only Governors of the NASD Board shall be eligible for election to the Board. The President of Nasdaq shall be a Director.] The number of Non-Industry Directors, including at least one Public Director and at least one issuer representative, shall equal or exceed the number of Industry Directors, plus the President *and the Chief Executive Officer (if they are elected Directors),* unless the Board consists of ten *or more* Directors. In such case at least two Directors shall be issuer representatives. [The Chief Executive Officer of the NASD shall be an ex-offico non-voting member of the Board] *At least two Industry Directors*

and two Non-Industry Directors shall be drawn from candidates proposed to the National Nominating Committee by a majority of the non-NASD stockholders of Nasdaq.

Election

Sec. 4.4 Except as otherwise provided by law, these By-Laws, or the Delegation Plan, after the first meeting of Nasdaq at which Directors are elected, *a class of* Directors of Nasdaq shall be elected each year at the annual meeting of the [stockholder] *stockholders,* or at a special meeting called for such purpose in lieu of the annual meeting. If the annual election of Directors is not held on the date designated therefore, the Directors shall cause such election to be held as soon thereafter as convenient.

Resignation

Sec. 4.5 Any Director may resign at any time either upon written notice of resignation to the Chair of the Board, *the Chief Executive Officer,* the President, or the Secretary. Any such resignation shall take effect at the time specified therein or, if the time is not specified, upon receipt thereof, and the acceptance of such resignation, unless required by the terms thereof, shall not be necessary to make such resignation effective.

Removal

Sec. 4.6 Any or all of the Directors may be removed from office at any time, [with or without cause, only by a majority vote of the NSDA Board] *but only for cause, by the affirmative vote of at least 66⅔ percent of the total voting power of the outstanding shares of capital stock of Nasdaq entitled to vote generally in the election of directors, voting together as a single class.*

Disqualification

Sec. 4.7 The term of office of a Director shall terminate immediately upon a determination by the Board, by a majority vote of the remaining Directors, that: (a) [*The*] the Director no longer satisfies the classification for which the Director was elected; and (b) the Director's continued service as such would violate the compositional requirements of the Board set forth in Section 4.3. If the term of office of a Director terminates under this Section, and the remaining term of office of such Director at the time of termination is not more than six months, during the period of vacancy the Board shall not be deemed to be in violation of Section 4.3 by virtue of such vacancy.

Filling of Vacancies

Sec. 4.8 If a Director position becomes vacant, whether because of death, disability, disqualification, removal, or resignation, the National Nominating Committee shall nominate, and the [NASD] Board shall elect by majority vote, a person satisfying the classification (Industry, Non-Industry, or Public Director) for the directorship as provided in Section 4.3 to fill such vacancy, except that if the remaining term of office for the vacant Director position is not more than six months, no replacement shall be required.

Quorum and Voting

Sec. 4.9 (a) At all meetings of the Board, unless otherwise set forth in these By-Laws or required by law, a quorum for the transaction of business shall consist of a majority of the Board[, including not less than 50 percent of the Non-Industry Directors]. On the absence of a quorum, a majority of the Directors present may adjourn the meeting until a quorum be present.

(b) Except as provided [in Section 4.14(b)] *herein or by applicable law,* the vote of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board.

Regulation

Sec, 4,10 No change.

Meetings

Sec. 4.11 (a) An annual meeting of the Board shall be held for the purpose of organization, election of officers, and transaction of any other business. If such meeting is held promptly after and at the place specified for the annual meeting of the [stockholder] *stockholders,* no notice of the annual meeting of the Board need be given. Otherwise, such annual meeting shall be held at such time and place as may be specified in a notice given in accordance with Section [4.13] *4.12.*

(b) No change.

(c) Special meetings of the Board may be called by the Chair of the Board, *by the Chief Executive Officer,* by the President, or by at least one-third of the Directors then in office. Notice of any special meeting of the Board shall be given to each Director in accordance with Section 4.12.

(d) No change.

Notice of Meetings; Waiver of Notice

Sec. 4.12 (a) No change.

(b) No change.

(c) Any meeting of the Board shall be a legal meeting without any prior notice if all Directors then in office shall be present thereat, *Except when a Director attends the meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened.*

Committees

Sec. 4.13 (a) The Board may, by resolution or resolutions adopted by a majority of the whole Board, appoint one or more committees. Except as herein provided, vacancies in membership of any committee shall be filled by the vote of a majority of the whole Board. The Board may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of any member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another Director to act at the meeting in the place of any such absent or disqualified member. Members of a committee shall hold office for such period as may be fixed by a resolution adopted by a majority of the whole Board. Any member of a committee may be removed from such committee only after a majority vote of the whole Board, after appropriate notice[, for refusal, failure, neglect, or inability to discharge such committee member's duties].

(b) No change.

(c) Except as otherwise provided by applicable law, no committee shall have the power or authority of the Board with regard to: amending the Restated Certificate of Incorporation or the By-Laws of Nasdaq; adopting an agreement of merger or consolidation; recommending to the [stockholder] *stockholders* the sale, lease, or exchange of all or substantially all Nasdaq's property and assets; or recommending to the [stockholder] *stockholders* a dissolution of Nasdaq or a revocation of a dissolution. Unless the resolution of the Board expressly so provides, no committee shall have the power or authority to authorize the issuance of stock.

(d) The Board may appoint an Executive Committee, which shall, to the fullest extent permitted by Delaware Law and other applicable law, have and be permitted to exercise all the powers and authority of the Board in the management of the business and affairs of Nasdaq between meetings of the Board, and which may authorize the seal of Nasdaq to be affixed to all papers that may require it. The Executive Committee shall consist of three or four Directors, including at least one Public Director. The [President] *Chief Executive Officer* of Nasdaq shall be a member of the Executive Committee. The number of Non-Industry committee members shall equal or exceed the number of Industry committee members plus the [President] *Chief Executive Officer.* An Executive Committee

member shall hold office for a term of one year. At all meetings of the Executive Committee, a quorum for the transaction of business shall consist of a majority of the Executive Committee[, including not less than 50 percent of the Non-Industry committee members]. In the absence of a quorum, a majority of the committee members present may adjourn the meeting until a quorum is present.

(e) The Board may appoint a Finance Committee. The Finance Committee shall advise the Board with respect to the oversight of the financial operations and conditions of Nasdaq, including recommendations for Nasdaq's annual operating and capital budgets and proposed changes to the rates and fees charged by Nasdaq. The Finance Committee shall consist of three or four Directors. The [President] *Chief Executive Officer* of Nasdaq shall serve as a member of the Committee. A Finance Committee member shall hold office for a term of one year.

(f) No change.

(g) No change.

(h) Upon request of the Secretary of Nasdaq, each prospective committee member who is not a Director shall provide to the Secretary such information as is reasonably necessary to serve as the basis for a determination of the prospective committee member's classification as an Industry, Non-Industry, or Public committee member. The Secretary of Nasdaq shall certify to the Board each prospective committee member's classification. Such committee members shall update the information submitted under this Section at least annually and upon request of the Secretary of Nasdaq, and shall report immediately to the Secretary any change in such [classification] information.

Conflicts of Interest; Contracts and Transactions Involving Directors

Sec. 4.14 (a) No change.

(b) No contract or transaction between Nasdaq and one or more of its Directors of officers, or between Nasdaq and any other corporation, partnership, association, or other organization in which one or more of its Directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason if: (i) the material facts pertaining to such Director's or officer's relationship or interest and the contract or transaction are disclosed or are known to the Board or the committee, and the Board or committee in good faith authorizes the contract or transaction by the affirmation vote of a majority of the disinterested Directors*, even though the disinterested Directors be less than a quorum;* (ii) the material facts are disclosed or become known to the Board or committee after the contract or transaction is entered into, and the Board or committee in good faith ratifies the contract or transaction by the affirmative vote of a majority of the disinterested Directors*, even though the disinterested Directors be less than a quorum;* or (iii) the material facts pertaining to the Director's or officer's relationship or interest and the contract or transaction are disclosed or are known to the [stockholder] *stockholders* entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the [stockholder. Only disinterested Directors may be counted in determining the presence of a quorum at the portion of a meeting of the Board or of a committee that authorizes the contract or transaction. This subsection shall not apply to a contract or transaction between Nasdaq and: the NASD, NASD Regulation, Nasdaq-Amex, or Amex] *stockholders.*

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Article V NASDAQ Listing and Hearing Review Council

Appointment and Authority

Sec. 5.1 No change.

Number of Members and Qualifications

Sec. 5.2 No change.

Nomination Process

Sec. 5.3 The Secretary of Nasdaq shall collect from each nominee for the office of member of the Nasdaq Listing and Hearing Review Council such information as is reasonably necessary to serve as the basis for a determination of the nominee's qualifications and classification as an Industry or Non-Industry member, and the Secretary shall certify to the National Nominating Committee each nominee's qualifications and classification. After appointment to the Nasdaq Listing and Hearing Review Council, each member shall update such information at least annually and upon request of the Secretary, and shall report immediately to the Secretary any change in such [qualifications or classification] *information.*

* * * * *

Article VII Officers, Agents, and Employees

Principal Officers

Sec. 7.1 The principal officers of Nasdaq shall be elected by the Board and shall include a Chair, *a Chief Executive Officer,* a President, a Secretary, a Treasurer, and such other officers as may be designated by the Board. One person may hold the offices and perform the duties of any two or more of said principal offices, except the offices and duties of President and Vice President or of President and Secretary. None of the principal officers, except the Chair of the Board and the [President] *Chief Executive Officer,* need be Directors of Nasdaq.

Election of Principal Officers; Term of Office

Sec. 7.2 No change.

Subordinate Officers, Agents, or Employees

Sec. 7.3 In addition to the principal officers, Nasdaq may have one or more subordinate officers, agents, and employees as the Board may deem necessary, each of whom shall hold office for such period and exercise such authority and perform such duties as the Board, *the Chief Executive Officer,* the President, or any officer designated by the Board, may from time to time determine. Agents and employees of Nasdaq shall be under the supervision and control of the officers of Nasdaq, unless the Board, by resolution, provides that an agent or employee shall be under the supervision and control of the Board.

Delegation of Duties of Officers

Sec. 7.4 No change.

Resignation and Removal of Officers

Sec. 7.5 (a) Any officer may resign at any time upon written notice of resignation to the Board, *the Chief Executive Officer,* the President, or the Secretary. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. The acceptance of a resignation shall not be necessary to make the resignation effective.

(b) No change.

Bond

Sec. 7.6 No change.

Chair of the Board

Sec. 7.7 The Chair of the Board shall preside at all meetings of the Board *and stockholders* at which the Chair is present. The Chair shall exercise such other powers and perform such other duties as may be assigned to the Chair from time to time by the Board.

[President] *Chief Executive Officer*

Sec. 7.8 *The Chief Executive Officer shall, in the absence of the Chair of the Board, preside at all meetings of the Board and stockholders at which the Chief Executive Officer is present. The Chief Executive Officer shall be the chief executive officer of Nasdaq and shall have general supervision over the business and affairs of Nasdaq. The Chief Executive Officer shall have all*

powers and duties usually incident to the office of the Chief Executive Officer, except as specifically limited by a resolution of the Board. The Chief Executive Officer shall exercise such other powers and perform such other duties as may be assigned to the Chief Executive Officer from time to time by the Board.

President

Sec. [7.8]*7.9* The President shall, in the absence of the Chair of the Board *and the Chief Executive Officer,* preside at all meetings of the Board *and stockholders* at which the President is present. The President [shall be the Chief Executive Officer of Nasdaq and] shall have general supervision over the business and affairs of Nasdaq. The President shall have all powers and duties usually incident to the office of the President, except as specifically limited by a resolution of the Board. The President shall exercise such other powers perform such other duties as may be assigned to the President from time to time by the Board.

Vice President

Sec. [7.9] *7.10* The Board shall elect one or more Vice Presidents. In the absence or disability of the President or if the office of President becomes vacant, the Vice Presidents in the order determined by the Board, or if no such determination has been made, in the order of their seniority, shall perform the duties and exercise the powers of the President, subject to the right of the Board at any time to extend or restrict such powers and duties or to assign them to others. Any Vice President may have such additional designations in such Vice President's title as the Board may determine. The Vice Presidents shall generally assist the President in such manner as the President shall direct. Each Vice President shall exercise such other powers and perform such other duties as may be assigned to such Vice President from time to time by the Board, *the Chief Executive Officer* or the President. The term ''Vice President'' used in this Section shall include the positions of Executive Vice President, Senior Vice President, and Vice President.

Secretary

Sec. [7.10] *7.11* The Secretary shall act as Secretary of all meetings of the [stockholder] *stockholders* and of the Board at which the Secretary is present, shall record all the proceedings of all such meetings in a book to be kept for that purpose, shall have supervision over the giving and service of notices of Nasdaq, and shall have supervision over the care and custody of the corporate records and the corporate seal of Nasdaq. The Secretary shall be empowered to affix the corporate seal to documents, the execution of which on behalf of Nasdaq under its seal, is duly authorized, and when so affixed, may attest the same. The Secretary shall have all powers and duties usually incident to the office of Secretary, except as specifically limited by a resolution of the Board. The Secretary shall exercise such other powers and perform such other duties as may be assigned to the Secretary from time to time by the Board, *the Chief Executive Officer* or the President.

Assistant Secretary

Sec. [7.11] *7.12* In the absence of the Secretary or in the event of the Secretary's inability or refusal to act, any Assistant Secretary, approved by the Board, shall exercise all powers and perform all duties of the Secretary. An Assistant Secretary shall also exercise such other powers and perform such other duties as may be assigned to such Assistant Secretary from time to time by the Board or the Secretary.

Treasurer

Sec. [7.12] *7.13* The Treasurer shall have general supervision over the care and custody of the funds and over the receipts and disbursements of Nasdaq and shall cause the funds of Nasdaq to be deposited in the name of Nasdaq in such banks or other depositories as the Board may designate. The Treasurer shall have supervision over the care and safekeeping of the securities of Nasdaq. The Treasurer shall have all powers and duties usually incident to the office of Treasurer except as specifically limited by a resolution of the Board. The Treasurer shall have all powers and duties usually incident to the office of Treasurer except as specifically limited by a resolution of the Board. The Treasurer shall exercise such other powers and perform such other duties as may be assigned to the Treasurer from time to time by the Board, *the Chief Executive Officer* or the President.

Assistant Treasurer

Sec. [7.13] 7.14 In the absence of the Treasurer or in the event of the Treasurer's inability or refusal to act, any Assistant Treasurer, approved by the Board, shall exercise all powers and perform all duties of the Treasurer. An Assistant Treasurer shall also exercise such other powers and perform such other duties as may be assigned to such Assistant Treasurer from time to time by the Board or the Treasurer.

Article VIII Indemnification

Indemnification of Directors, Officers, Employees, Agents, Nasdaq Listing and Hearing Review Council and Committee Members

Sec. 8.1 (a) No change.

(b) Nasdaq shall advance expenses (including attorneys' fees and disbursements) *reasonably and actually incurred in defending any action, suit, or proceeding in advance of its final disposition* to persons described in subsection (a); provided, however, that the payment of expenses incurred by such person in advance of the final disposition of the matter shall be conditioned upon receipt of a written undertaking by that person to repay all amounts advanced if it should be ultimately determined that the person is not entitled to be indemnified under this Section or otherwise.

* * * * *

Article IX Capital Stock

[Sole Stockholder] Certificates

[Sec. 9.1 The NASD shall be the sole stockholder of the capital stock of Nasdaq.] Certificates

[See 9.2 The] *Sec. 9.1 Each* stockholder shall be entitled to a certificate or certificates in such form as shall be approved by the Board, certifying the number of shares of capital stock in Nasdaq owned by [the] *such* stockholder.

Signatures

Sec. [9.3] *9.2* (a) Certificates for shares of capital stock of Nasdaq shall be signed in the name of Nasdaq by two officers with one being the Chair of the Board, *the Chief Executive Officer,* the President, or a Vice President, and the other being the Secretary, the Treasurer, or such other officer that may be authorized by the Board. Such certificates may be sealed with the corporate seal of Nasdaq or a facsimile thereof.

(b) If any such certificates are countersigned by a transfer agent other than Nasdaq or its employee, or by a registrar other than Nasdaq or its employee, any other signature on the certificate may be a facsimile. In the event that any officer, transfer agent, or registrar who has signed or whose facsimile signature has been placed upon a certificate shall cease to be such officer, transfer agent, or registrar before such certificate is issued, such certificate may be issued by Nasdaq with the same effect as if such person were such officer, transfer agent, or registrar at the date of issue.

Stock Ledger

Sec. [9.4] *9.3* (a) A record of all certificates for capital stock issued by Nasdaq shall be kept by the Secretary or any other officer, employee, or agent

designated by the Board. Such record shall show the name and address of the person, firm, or corporation in which certificates for capital stock are registered, the number of shares represented by each such certificate, the date of each such certificate, and in the case of certificates which have been canceled, the date of cancellation thereof.

(b) Nasdaq shall be entitled to treat the holder of record of shares of capital stock as shown on the stock ledger as the owner thereof and as the person entitled to vote such shares and to receive notice of meetings, and for all other purposes. Nasdaq shall not be bound to recognize any equitable or other claim to or interest in any share of capital stock on the part of any other person, whether or not Nasdaq shall have express or other notice thereof.

Transfers of Stock

Sec. [9.5] *9.4* (a) The Board may make such rules and regulations as it may deem expedient, not inconsistent with law, the Restated Certificate of Incorporation, or these By-Laws, concerning the issuance, transfer, and registration of certificates for shares of capital stock of Nasdaq. The Board may appoint, or authorize any principal officer to appoint, one or more transfer agents or one or more transfer clerks and one or more registrars and may require all certificates for capital stock to bear the signature or signatures of any of them.

(b) Transfers of capital stock shall be made on the books of Nasdaq only upon delivery to Nasdaq or its transfer agent of: (i) a written direction of the registered holder named in the certificate or such holder's attorney lawfully constituted in writing; (ii) the certificate for the shares of capital stock being transferred; and (iii) a written assignment of the shares of capital stock evidenced thereby.

Cancellation

Sec. [9.6] *9.5* Each certificate for capital stock surrendered to Nasdaq for exchange or transfer shall be canceled and no new certificate or certificates shall be issued in exchange for any existing certificate other than pursuant to Section [9.7] *9.6* until such existing certificate shall have been canceled.

Lost, Stolen, Destroyed, and Multilated Certificates

Sec. [9.7] *9.6* In the event that any certificate for shares of capital stock of Nasdaq shall be multilated, Nasdaq shall issue a new certificate in place of such multilated certificate. In the event that any such certificate shall be lost, stolen, or destroyed, Nasdaq may, in the discretion of the Board or a committee appointed thereby with power so to act, issue a new certificate for capital stock in the place of any such lost, stolen, or destroyed certificate. The applicant for any substituted certificate or certificates shall surrender any multilated certificate or, in the case of any lost, stolen, or destroyed certificate, furnish satisfactory proof of such loss, theft, or destruction of such certificate and of the ownership thereof. The Board or such committee may, in its discretion, require the owner of a lost or destroyed certificate, or the owner's representatives, to furnish to Nasdaq a bond with an acceptable surety or sureties and in such sum as will be sufficient to indemnify Nasdaq against any claim that may be against it on account of the lost, stolen, or destroyed certificate or the issuance of such new certificate. A new certificate may be issued without requiring a bond when, in the judgment of the Board, it is proper to do so.

Fixing of Record Date

Sec. [9.8] *9.7* The Board may fix a record date in accordance with Delaware law.

Article X Miscellaneous Provisions

Corporate Seal

Sec. 10.1 No change.

Fiscal Year

Sec. 10.2 No change.

Waiver of Notice

Sec. 10.3 (a) Whenever notice is required to be given by law, the Restated Certificate of Incorporation, or these By-Laws, a written waiver thereof, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the [stockholder] *stockholders,* Directors, or members of a committee of Directors need be specified in any written waiver of notice.

* * * * *

Article XI Amendments; Emergency By-Laws

By [Stockholder] *Stockholders*

Sec. 11.1 These By-Laws may be altered, amended, or repealed, or new By-Laws may be adopted, at any meeting of the [stockholder] *stockholders by the affirmative vote of the holders of at least 66⅔ percent of the voting power of the then outstanding stock entitled to vote, voting together as a single class,* provided that, in the case of a special meeting, notice that an amendment is to be considered and acted upon shall be inserted in the notice or waiver of notice of said meeting.

By Directors

Sec. 11.2 No change.

Emergency By-Laws

Sec. 11.3 The Board may adopt emergency By-Laws subject to repeal or change by action of the [stockholder] *stockholders* which shall, notwithstanding any different provision of law, the Restated Certificate of Incorporation, or these By-Laws, be operative during any emergency resulting from any nuclear or atomic disaster, an attack on the United States or on a locality in which Nasdaq conducts its business or customarily holds meetings of the Board or the [stockholder] *stockholders,* any catastrophe, or other emergency condition, as a result of which a quorum of the Board or a committee thereof cannot readily be convened for action. Such emergency By-Laws may make any provision that may be practicable and necessary under the circumstances of the emergency.

* * * * *

Restated Certificate of Incorporation of the Nasdaq Stock Market, Inc.

The undersigned, _____[Joan C. Conley, Corporate Secretary], *the* of The Nasdaq Stock Market, Inc. (''Nasdaq''), a Delaware corporation, does hereby certify:

First: That the name of the corporation is The Nasdaq Stock Market, Inc. The date of the filing of its original Certificate of Incorporation with the Secretary of State of the State of Delaware was November 13, 1979. The name under which Nasdaq was originally incorporated was ''NASD Market Services, Inc.''

Second: That the Certificate of Incorporation of Nasdaq [has been] *is hereby* amended and restated *to read* in its entirety as follows:

Article First

The name of the corporation is The Nasdaq Stock Market, Inc.

Article Second

The address of Nasdaq's registered office in the State of Delaware is 1209 Orange Street, City of Wilmington, County of New Castle, Delaware 19801. The name of Nasdaq's registered agent at such address is The Corporation Trust Company.

Article Third

The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be

organized under the General Corporation Law of the State of Delaware, and, without limiting the generality of the foregoing business or purposes to be conducted or promoted, shall include, *to the extent applicable to Nasdaq*, the responsibilities and functions set forth in the ''Plan of Allocation and Delegation of Functions by NASD to Subsidiaries,'' as approved by the Securities and Exchange Commission, as amended from time to time.

Article Fourth

[Nasdaq shall be authorized to issue a total of 2,000 shares of common stock with no par value.

Article Fifth

Nasdaq shall be governed by the Board of Directors of such number and having such qualifications, powers, and duties as shall be provided in the By-Laws. The Board shall be selected in such manner, and shall serve for such term, as shall be stated in the By-Laws. The Board of Directors shall have the power to adopt, alter, or repeal the By-Laws of Nasdaq at any meeting at which a quorum is present] *A. The total number of shares of stock which Nasdaq shall have the authority to issue is Three Hundred Thirty Million (330,000,000), consisting of Thirty Million (30,000,000) shares of Preferred Stock, par value $.01 per share (hereinafter referred to as ''Preferred Stock), and Three Hundred Million (300,000,000) shares of Common Stock, par value $.01 per share (hereinafter referred to as ''Common Stock'').*

B. The Preferred Stock may be issued from time to time in one or more series. The Board of Directors of Nasdaq (the ''Board'') is hereby authorized to provide for the issuance of shares of Preferred Stock in one or more series and, by filing a certificate pursuant to the applicable law of the State of Delaware (hereinafter referred to as ''Preferred Stock Designation''), to establish from time to time the number of shares to be included in each such series, and to fix the designation, powers, preferences and rights of the shares of each such series and the qualifications, limitations and restrictions thereof. The authority of the Board with respect to each series shall include, but not limited to, determination of the following:

(1) The designation of the series, which may be by distinguishing number, letter or title.

(2) The number of shares of the series, which number the Board may thereafter (except where otherwise provided in the Preferred Stock Designation) increase or decrease (but not below the number of shares thereof then outstanding).

(3) The amounts payable on, and the preferences, if any, of shares of the series in respect of dividends, and whether such dividends, if any, shall be cumulative or noncumulative.

(4) Dates at which dividends, if any, shall be payable.

(5) The redemption rights and price or prices, if any, for shares of the series.

(6) The terms and amount of any sinking fund provided for the purchase or redemption of shares of the series.

(7) The amounts payable on, and the preferences, if any, of shares of the series in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of Nasdaq.

(8) Whether the shares of the series shall be convertible into or exchangeable for shares of any other class or series, or any other security, of Nasdaq or any other corporation, and, if so, the specification of such other class or series or such other security, the conversion or exchange price or prices or rate or rates, any adjustments thereof, the date or dates at which such shares shall be convertible or exchangeable and all other terms and conditions upon which such conversion or exchange may be made.

(9) Restrictions on the issuance of shares of the same series or of any other class or series.

(10) The voting rights, if any, of the holders or shares of the series.

C. 1. Except as may otherwise be provided in this Restated Certificate of Incorporation (including any Preferred Stock Designation) or by applicable law, each holder of Common Stock, as such, shall be entitled to one vote for each share of Common Stock held of record by such holder on all matters on which stockholders generally are entitled to vote, and no holder of any series of Preferred Stock, as such, shall be entitled to any voting powers in respect thereof.

2. Notwithstanding any other provision of this Restated Certificate of Incorporation, but subject to subparagraph 6 of this paragraph C. of this Article Fourth, in no event shall any record owner of any outstanding Common Stock which is beneficially owned, directly or indirectly, as of any record date for the determination of stockholders entitled to vote on any matter, by a person (other than an Exempt Person) who beneficially owns shares of Common Stock (''Excess Shares'') in excess of five percent (5%) of the then-outstanding shares of Common Stock, be entitled or permitted to vote any Excess Shares. For all purposes hereof, any calculation of the number of shares of Common Stock outstanding at any particular time, including for purposes of determining the particular percentage of such outstanding shares of Common Stock of which any person is the beneficial owner, shall be made in accordance with the last sentence of Rule 13d–3(d)(1)(i) of the General Rules and Regulations under the Securities Exchange Act of 1934, as amended (the ''Exchange Act''), as in effect on the date of filing this Restated Certificate of Incorporation.

3. The following definitions shall apply to this paragraph C. of this Article Fourth:

(a) ''Affiliate'' shall have the meaning ascribed to that term in Rule 12b–2 of the General Rules and Regulations under the Exchange Act, as in effect on the date of filing this Restated Certificate of Incorporation.

(b) A person shall be deemed the ''beneficial owher'' of, shall be deemed to have ''beneficial ownership'' of and shall be deemed to ''beneficially own'' any securities:

(i) which such person or any of such person's Affiliates is deemed to beneficially own, directly or indirectly, within the meaning of Rule 13d–3 of the General Rules and Regulations under the Exchange Act as in effect on the date of the filing of this Restated Certificate of Incorporation;

(ii) which such person or any such person's Affiliates has (A) the right to acquire (whether such right is exercisable immediately or only after the passage of time) pursuant to any agreement, arrangement or understanding (other than customary agreements with and between underwriters and selling group members with respect to a bona fide public offering of securities), or upon the exercise of conversion rights, exchange rights, rights, warrants or options, or otherwise; provided however, that a person shall not be deemed the beneficial owner of, or to beneficially own, securities tendered pursuant to a tender or exchange offer made by or on behalf of such person or any of such person's Affiliates until such tendered securities are accepted for purchase; or (B) the right to vote pursuant to any agreement, arrangement or understanding; provided, however, that a person shall not be deemed the beneficial owner of, or to beneficially own, any security by reason of such agreement, arrangement or understanding if the agreement, arrangement or understanding to vote such security (1) arises solely from a revocable proxy or consent given to such

person in response to a public proxy or consent solicition made pursuant to, and in accordance with, the applicable rules and regulations promulgated under the Exchange Act and (2) is not also then reportable on Schedule 13D under the Exchange Act (or any comparable or successor report); or

(iii) which are beneficially owned, directly or indirectly, by any other person and with respect to which such person or any of such person's Affiliates has any agreement, arrangement or understanding (other than customary agreements with and between underwriters and selling group members with respect to a bona fide public offering of securities) for the purpose of acquiring, holding, voting (except to the extent contemplated by the proviso to (b)(ii)(B) above) or disposing of such securities;

provided, however, that (A) no person who is an officer, director or employee of an Exempt Person shall be deemed, solely by reason of such person's status or authority as such, to be the ''beneficial owner'' of, to have ''beneficial ownership'' of or to ''beneficially own'' any securities that are ''beneficially owned'' (as defined herein), including, without limitation, in a fiduciary capacity, by an Exempt Person or by any other such officer, director or employee of an Exempt Person, and (B) the Voting Trustee, as defined in the Voting Trust Agreement by and among Nasdaq, the National Association of Securities Dealers, Inc., a Delaware corporation (the ''NADS'', and The Bank of New York, a New York banking corporation, as such may be amended from time to time (the ''Voting Trust Agreement''), shall not be deemed, solely by reason of such person's status or authority as such, to be the ''beneficial owner'' of, to have ''beneficial ownership'' of or to ''beneficially own'' any securities that are governed by and held in accordance with the Voting Trust Agreement.

(c) A ''person'' shall mean any individual, firm, corporation, partnership, limited liability company or other entity.

(d) ''Exempt Person'' shall mean Nasdaq or any Subsidiary of Nasdaq, in each case including, without limitation, in its fiduciary capacity, or any employee benefit plan of Nasdaq or of any Subsidiary of Nasdaq, or any entity or trustee holding Common Stock for or pursuant to the terms of any such plan or for the purpose of funding any such plan or funding other employee benefits for employees of Nasdaq or of any Subsidiary of Nasdaq.

(e) ''Subsidiary'' of any person shall mean any corporation or other entity of which securities or other ownership interests have ordinary voting power sufficient to elect a majority of the board of directors or other persons performing similar functions are beneficially owned, directly or indirectly, by such person, and any corporation or other entity that is otherwise controlled by such person.

(f) The Board shall have the power to construe and apply the provisions of this paragraph C. of this Article Fourth and to make all determinations necessary or desirable to implement such provisions, including, but not limited to, matters with respect to (1) the number of shares of Common Stock beneficially owned by any person, (2) whether a person is an Affiliate of another, (3) whether a person has an agreement, arrangement or understanding with another as to the matters referred to in the definition of beneficial ownership, (4) the application of any other definition or operative provision hereof to the given facts, or (5) any other matter relating to the applicability or effect of this paragraph C. of this Article Fourth.

4. The Board shall have the right to demand that any person who is reasonably believed to hold of record or beneficially own Excess Shares supply Nasdaq with complete information as to (a) the record owner(s) of all shares beneficially owned by such person who is reasonably believed to own Excess Shares, and (b) any other factual matter relating to the applicability or effect of this paragraph C. of this Article Fourth as may reasonably be requested of such person.

5. Any constructions, applications, or determinations made by the Board, pursuant to this paragraph C. of this Article Fourth, in good faith and on the basis of such information and assistance as was then reasonably available for such purpose, shall be conclusive and binding upon Nasdaq and its stockholders.

6. Notwithstanding anything herein to the contrary, subparagraph 2 of this paragraph C. of this Article Fourth shall not be applicable to any Excess Shares beneficially owned by (a) the NASD or its Affiliates until such time as the NASD beneficially owns five percent (5%) or less of the outstanding shares of Common Stock or (b) any other person as may be approved for such exemption by the Board prior to the time such person beneficially owns more than five percent (5%) of the outstanding shares of Common Stock. The Board, however, may not approve an exemption under this Section 6(b): (i) for a registered broker or dealer or an Affiliate thereof (provided that, for these purposes, an Affiliate shall not be deemed to include an entity that either owns ten percent or less of the equity of a broker or dealer, or the broker or dealer accounts for one percent or less of the gross revenues received by the consolidated entity); or (ii) an individual or entity that is subject to a statutory disqualification under Section 3(a)(39) of the Exchange Act. The Board may approve an exemption for any other stockholder if the Board determines that granting such exemption would (A) not reasonably be expected to diminish the quality of, or public confidence in, The Nasdaq Stock Market or the other operations of Nasdaq, on the ability to prevent fraudulent and manipulative acts and practices and on investors and the public, and (B) promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities or assist in the removal of impediments to or perfection of the mechanisms for a free and open market and a national market system.

7. In the event any provision (or portion thereof) of this paragraph C. of this Article Fourth shall be found to be invalid, prohibited or unenforceable for any reason, the remaining provisions (or portions thereof) of this paragraph C. of this Article Fourth shall remain in full force and effect, and shall be construed as if such invalid, prohibited or unenforceable provision (or portion hereof) had been stricken herefrom or otherwise rendered inapplicable, it being the intent of Nasdaq and its stockholders that each such remaining provision (or portion thereof) of this paragraph C. of this Article Fourth remains, to the fullest extent permitted by law, applicable and enforceable as to all stockholders, including stockholders that beneficially own Excess Shares, notwithstanding any such finding.

Article Fifth

A. The business and affairs of Nasdaq shall be managed by, or under the direction of, the Board. The total number of directors constituting the entire Board shall be fixed from time to time by the Board.

B. The Board (other than those directors elected by the holders of any series of Preferred Stock provided for or fixed pursuant to the provisions of Article Fourth hereof, (the ''Preferred Stock Diectors'')) shall be divided into three classes, as nearly equal in number as possible, designated Class I, Class II and Class III. Class I directors shall initially serve until the first annual meeting of stockholders following the

effectiveness of this Restated Certificate of Incorporation; Class II directors shall initially serve until the second annual meeting of stockholders following the effectiveness of this Restated Certificate of Incorporation; and Class III directors shall initially serve until the third annual meeting of stockholders following the effectiveness of this Restated Certificate of Incorporation. Commencing with the first annual meeting of stockholders following the effectiveness of this Restated Certificate of Incorporation, directors of each class the term of which shall then expire shall be elected to hold office for a three-year term and until the election and qualification of their respective successors in office. In case of any increase or decrease, from time to time, in the number of directors (other than Preferred Stock Directors), the number of directors in each class shall be apportioned as nearly equal as possible.

C. Subject to the rights of the holders of any one or more series of Preferred Stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board resulting from death, resignation, retirement, disqualification, removal from office or other cause shall only be filled by the Board. Any director so chosen shall hold office until the next election of the class for which such directors shall have been chosen and until his successor shall be elected and qualified. No decrease in the number of directors shall shorten the term of any incumbent director.

D. Except for Preferred Stock Directors, any director, or the entire Board, may be removed from office at any time, but only for cause and only by the affirmative vote of [the majority of the whole Board of Directors.] *at least 66⅔% of the total voting power of the outstanding shares of capital stock of Nasdaq entitled to vote generally in the election of directors (''Voting Stock''), voting together as a single class.*

E. During any period when the holders of any series of Preferred Stock have the right to elect additional directors as provided for or fixed pursuant to the provisions of Article Four hereof, then upon commencement and for the duration of the period during which such right continues: (i) the then otherwise total authorized number of directors of Nasdaq shall automatically be increased by such specified number of directors, and the holders of such Preferred Stock shall be entitled to elect the additional directors so provided for or fixed pursuant to said provisions, and (ii) each such additional director shall serve until such director's successor shall have been duly elected and qualified, or until such director's right to hold such office terminates pursuant to said provisions, whichever occurs earlier, subject to his earlier death, disqualification, resignation or removal. Except as otherwise provided by the Board in the resolution or resolutions establishing such series, whenever the holders of any series of Preferred Stock having such right to elect additional directors are divested of such right pursuant to the provisions of such stock, the terms of office of all such additional directors elected by the holders of such stock, or elected to fill any vacancies resulting from death, resignation, disqualification or removal of such additional directors, shall forthwith terminate and the total authorized number of directors of Nasdaq shall automatically be reduced accordingly.

Article Sixth

A. A director of Nasdaq shall not be liable to Nasdaq or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent that such exemption from liability or limitation thereof is not permitted under the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended.

B. Any repeal or modification of [the foregoing] paragraph *A.* shall not adversely affect any right or protection of a director of Nasdaq existing hereunder with respect to any act or omission occurring prior to such repeal or modification.

Article [Sixth] *Seventh*

[Nasdaq reserves the right to amend, alter, change, or repeal any provisions contained in this Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred herein are granted subject to this reservation.] *No action that is required or permitted to be taken by the stockholders of Nasdaq at any annual or special meeting of stockholders may be effected by written consent of stockholders in lieu of a meeting of stockholders.*

[Article Seventh] *Article Eighth*

In furtherance of, and not in limitation of, the powers conferred by law, the Board is expressly authorized and empowered to adopt, amend or repeal the By-Laws of Nasdaq: provided, however, that the By-Laws adopted by the Board under the powers hereby conferred may be amended or repealed by the Board or by the stockholders having voting power with respect thereto, provided further that, notwithstanding any other provision of this Restated Certificate of Incorporation or any provision of law which might otherwise permit a lesser vote or no vote, but in addition to any affirmative vote of the holders of any particular class or series of the stock required by law or this Restated Certificate of Incorporation, the affirmative vote of the holders of at least 66⅔% percent of the total voting power of the outstanding Voting Stock, voting together as a single class, shall be required in order for the stockholders to adopt, alter, amend or repeal any By-Law.

Article Ninth

Nasdaq reserves the right to amend, alter, change, or repeal any provisions contained in this Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred herein are granted subject to this reservation; provided, however, that the affirmative vote of the holders of at least 66⅔% of the voting power of the outstanding Voting Stock, voting together as a single class, shall be required to amend, repeal or adopt any provision inconsistent with paragraph C. of Article Fourth, Article Fifth, Article Seventh, Article Eighth or this Article Ninth.

Article Tenth

Nasdaq shall have perpetual existence.

Article Eleventh

In light of the unique nature of Nasdaq and its operations and in light of Nasdaq's status as a self-regulatory organization, the Board of Directors, when evaluating (A) any tender or exchange offer or invitation for tenders or exchanges, or proposal to make a tender or exchange offer or request or invitation for tenders or exchanges, by another party, for any equity security of Nasdaq, (B) any proposal or offer by another party to (1) merge or consolidate Nasdaq or any subsidiary with another corporation or other entity, (2) purchase or otherwise acquire all or a substantial portion of the properties or assets of Nasdaq or any subsidiary, or sell or otherwise dispose of to Nasdaq or any subsidiary all or a substantial portion of the properties or assets of such other party, or (3) liquidate, dissolve, reclassify the securities of, declare an extraordinary dividend of, recapitalize or reorganize Nasdaq, (C) any action, or any failure to act, with respect to any holder or potential holder of Excess Shares subject to the limitations set forth in subparagraph 2 of paragraph C. of Article Fourth, (D) any demand or proposal, precatory or

otherwise, on behalf of or by a holder or potential holder of Excess Shares subject to the limitations set forth in subparagraph 2 of paragraph C. of Article Fourth or (E) any other issue, shall, to the fullest extent permitted by applicable law, take into account all factors that the Board of Directors deems relevant, including, without limitation, to the extent deemed relevant, (i) the potential impact thereof on the integrity, continuity and stability of The Nasdaq Stock Market and the other operations of Nasdaq, on the ability to prevent fradulent and manipulative acts and practices and on investors and the public, and (ii) whether such would promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities or assist in the removal of impediments to or perfection of the mechanisms for a free and open market and a national market system.

Third: That such Restated Certificate of Incorporation has been duly adopted by [the stockholder of] Nasdaq in accordance with the applicable provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware *and in accordance with Section 228 of the General Corporation Law of the State of Delaware (by the written consent of its sole stockholder*).

In witness whereof, the undersigned [have] *has* executed this certificate this ____ [24th day of November, 1997] day of _____, ____.

THE NASDAQ STOCK MARKET, INC.

By:_____

(signature)

[Joan C. Conley] [Corporate Secretary]

_____

(printed name)

(title)

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq 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 amend Nasdaq's By-Laws and Restated Certificate of Incorporation (''Certificate'') in accordance with the Restructuring Plan (the ''Restructuring'') approved by NASD members on April 14, 2000, with 3,423 members voting in favor and 652 against the Restructuring. The Restructuring involves broadening the ownership in Nasdaq (which is currently 100 percent owned by the NASD) through a two-phase private placement of common stock and warrants to NASD members, Nasdaq issuers, institutional investors and strategic partners. In order to implement the Restructuring, Nasdaq must amend its By-Laws and Certificate. The proposed rule change, as described below, includes amendments needed to implement Phase I of the Restructuring. During this Phase, Nasdaq will continue to operate under the Plan of Allocation and Delegation of Functions by the NASD to its Subsidiaries (the ''Delegation Plan''), as approved by the Commission. Nasdaq will submit an Application For, and Amendments to Application For, Registration as a National Securities Exchange or Exemption from Registration Pursuant to Section 5 of the Exchange Act (Form 1) to obtain exchange registration. After exchange registration, Nasdaq will no longer operate under the Delegation Plan.

By-Laws

Article I

Nasdaq proposes to amend the definitions in Article I(i), (j), and (q) to reflect the newly created Chief Executive Officer position. *See* Article VII, Section 7.8. Nasdaq also proposes conforming amendments in Article IV, Sections 4.5, 4.11(c), 4.13(d) and (e); Article VII, Sections 7.1, 7.3, 7.5, 7.9, 7.10, 7.11, and 7.13; and Article IX, Section 9.2.

Article III

Nasdaq proposes procedures for annual and special meetings of stockholders, including procedures for a stockholder to nominate persons for election to the Board or to propose business to be considered at an annual meeting.

Article IV

Nasdaq proposes to amend Section 4.2 to permit the Board to determine the number of Directors. Currently, this Section requires that the number of Nasdaq Directors equal the number of NASD Regulation Directors. This provisions was designed to balance the roles of the subsidiaries in the current interlocking Board structure and is no longer applicable under the new structure. Under the proposed rule change, any increase in the size of the Board would be filled in accordance with the Certificate, as described below.

Under Section 4.3, Nasdaq proposes to remove the requirement that all Directors also be Governors of the NASD Board. As part of the Restructuring, the non-NASD shareholders will have the right to nominate four Directors who will not be NASD Governors. These four Directors must be proposed to the NASD National Nominating Committee by a majority of non-NASD stockholders of Nasdaq. The number of Non-Industry Directors would continue to equal or exceed the number of Industry Directors, plus the newly created Chief Executive Officer and the Nasdaq President (if they are elected to be Directors). To maintain this balance, the four new Nasdaq Director positions will be evenly split between Industry and Non-Industry Directors.

Nasdaq proposes to amend Section 4.6 by deleting the provision that permits a Director to be removed with or without cause by a majority vote of the Board. Under the proposed rule change, a Director could only be removed for cause by an affirmative vote of at least 66⅔ percent of the total voting power of the outstanding shares of capital stock of Nasdaq entitled to vote generally in the election of directors, voting together as a single class. The Certificate contains a similar provision. *See* Article Fifth, Paragraph D, Certificate.

Nasdaq proposes to amend Section 4.8 to authorize the Nasdaq Board, rather than the NASD Board, to fill vacancies on the Nasdaq Board. *See also* Article Fifth, Paragraph C, Certificate.

Nasdaq proposes to amend Section 4.9 to provide that a quorum for the transaction of business at a Board meeting shall consist of a majority of the Board. The requirement that the quorum also include not less than 50 percent of the Non-Industry directors is eliminated, on the advice of NASD's Delaware Counsel that these provisions would be deemed, under Delaware's General Corporation Law (''Delaware Law''), to confer special voting powers on the non-industry members: Section 141(d) of Delaware Law permits such disparity only where the Directors are elected by separate classes of stock, and such disparity of directors is delineated in the certificate of incorporation.

Nasdaq proposes to amend Section 4.13(a) to eliminate a provision that the Board may remove a committee member only for refusal, failure, neglect, or inability to discharge the committee member's duties. Removal of a committee member would still require a majority vote of the whole Board and notice to the committee member.

Nasdaq proposes to amend Section 4.14(b), which concerns interested party transactions, to permit the authorization or ratification of an interested party transaction by a majority of disinterested Directors, even if the number of such Directors does not constitute a quorum. The Section is further amended by eliminating a provision that excludes from application of the Section any contracts or transactions among the NASD companies. The amended Section will not apply to contracts or transactions among stockholders.

Article IX

The text of Section 9.1, which states that the NASD shall be the sole stockholder of Nasdaq, is deleted. The remainder of Article IX is renumbered accordingly. References to a single stockholder throughout the By-Laws are amended to refer to ''stockholders.''

Article XI

Currently, as sole stockholder of Nasdaq, the NASD may amend the Nasdaq By-Laws. Nasdaq proposes to amend Section 11.1 to eliminate this authority and provide that the Nasdaq By-Laws may be amended by an affirmative vote of the holders of at least 66⅔ percent of the voting power of the then outstanding stock entitled to vote, voting together as a single class. As under the current By-Laws, the Nasdaq Board also may amend the By-Laws. *See also* Article Eighth, Certificate.

Certificate

Nasdaq is amending the Certificate to conform it to the changes described above,, as well as to make the following changes.

Article Fourth

Number of Shares: The Certificate currently authorizes Nasdaq to issues 2,000 shares of common stock. The authorization is increased to 330 million shares.

Blank Check Preferred Stock: Under Delaware Law, a certificate of incorporation of a corporation can authorize the issuance of shares of preferred stock, the terms of which are not set forth in the certificate of incorporation but may be fixed by the board of directors in the future. The Certificate authorizes the issuance of such shares and confers upon the Nasdaq Board such authority.

Scaled Voting: Paragraph C of Article Fourth contains a ''scaled voting'' provision. Pursuant to this provision, beneficial owners of Nasdaq common stock have their voting power capped. Specifically, any person who benefically owns shares of common stock in excess of five percent of the then-outstanding shares of common stock (''Excess Shares'') will not be entitled or permitted to vote any such Excess Shares. This provision is not, however, applicable to: (1) the NASD or its affiliates until such time as NASD beneficially owns five percent of less of the outstanding shares of Nasdaq common stock; or (2) any other person approved by the Board for such an exemption before such person owns more than five percent of the outstanding shares of Nasdaq common stock. The purpose of this latter exemptive provision is to allow some flexibility should Nasdaq seek to enter into a business combination in which it would want to utilize shares of common stock in the transaction. The Nasdaq Board may not approve an exemption for a registered broker or dealer or an affiliate (with certain exceptions for affiliates as defined in the provision) or an individual or entity that is subject to a statutory disqualification under Section 3(a)(39) of the Act. The Nasdaq Board may grant an exemption to any other shareholder if the Board determines that granting an exemption would: (1) not reasonably be expected to diminish the quality of, or public confidence in, The Nasdaq Stock Market or the other operations of Nasdaq, on the ability to prevent fraudulent and manipulative acts and practices and on investors and the public, and (2) promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities or assist in the removal of impediments to or perfection of the mechanisms for a free and open market and a national market system.

Article Fifth

Board Size: Under Delaware Law, the number of directors must be fixed by, or in the manner provided in, the by-laws unless the certificate of incorporation fixes the number of directors, in which case a change in the number of directors shall be made only by amendment to the certificate of incorporation. The Certificate vests the Board with the exclusive authority to fix the number of directors of Nasdaq.

Staggered Board: Delaware Law permits a corporation, either in its certificate of incorporation or in a stockholder-adopted by-law, to divide its board of directors into three classes, with the term of office of one-third of the directors expiring each year. A staggered or classified board of directors provides for continuity of membership and limits an acquiror's ability to effect a rapid change in control of a corporation and/or its management, since it will take at least two stockholder meetings, instead of one, for majority control of the board to shift. The Certificate contains such a provision. Under the amended Certificate, Directors elected to the classified board may be removed only for cause and by affirmative vote of at least 66⅔% of the total voting power of the outstanding shares of capital stock of Nasdaq entitled to vote generally in the election of directors, voting together as a single class. *See also* Article IV, Section 4.4, Bylaws.

Filling Vacancies on the Board and Newly-Created Directorship: Under Delaware Law, unless otherwise provided in the certificate of incorporation or by-laws, (i) vacancies and newly-created directorships may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director, or (ii) if holders of any class or classes of stock are entitled to elect one or more directors, vacancies and newly-created directorships of such class or classes may be filled by a majority of the other directors elected by such class or classes. The Certificate vests the Board with the exclusive authority to fill vacancies on the Board and newly-created directorships.

Article Seventh

Limitations on Stockholder Actions Without Meetings: Unless otherwise provided in the certificate of incorporation, stockholders of a Delaware corporation may take action without meetings, without prior notice and without a vote if a consent or consents in writing setting forth the action taken is signed by the holders of that number of shares that would be required to authorize the taking of such action at a meeting at which all shares were present. The Certificate prohibits stockholder action by written consent.

Articles Eighth and Ninth

Power of Board to Amend By-Laws: Under Delaware Law, stockholders have the power to adopt, amend, or repeal by-laws. However, the certificate of incorporation can also confer this power upon the directors. The Certificate vests

the Nasdaq Board with such concurrent authority.

Supermajority Voting Requirements for By-Law or Certificate Amendments: Delaware Law permits the certificate of incorporation to require a supermajority vote of stockholders for particular corporate action. The Certificate requires the approval of 66⅔% of the outstanding voting power for stockholder approval of amendments to certain provisions of the Certificate and for stockholders to amend the Nasdaq By-Laws.

Article Eleventh

The amended Certificate includes a new constituency provision that reflects the unique nature of the Nasdaq and its operations and status as a self-regulatory organization. To the fullest extent permitted by applicable law, this provision requires the Board to take into account certain factors in evaluating tender or exchange offers, mergers or consolidations, voting exemptions pursuant to Article Fourth, and other issues. These factors include, but are not limited to: (i) the potential impact thereof on the integrity, continuity and stability of The Nasdaq Stock Market and the other operations of Nasdaq, on the ability to prevent fraudulent and manipulative acts and practices and on investors and the public, and (ii) whether such would promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities or assist in the removal of impediments to or perfection of the mechanisms for a free and open market and a national market system.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Nasdaq believes that the voting limitations and constituency provision in Articles Fourth and Eleventh of the Certificate will serve the public interest by ensuring that certain individuals or entities cannot gain under influence over the operations of the Nasdaq Stock Market.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Nasdaq neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–00–27 and should be submitted by June 13, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–12926 Filed 5–22–00; 8:45 am]

BILLING CODE 8010–01–W

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42785; International Series Release No. 1223; File No. SR–NYSE–00–23]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to the Trading of the Ordinary Shares of UBS AG

May 15, 2000.

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 May 15, 2000, the New York Stock Exchange, Inc. (the ''Exchange'' or the ''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to adopt an interpretation under its rules to accommodate the trading of UBS AG (''UBS''). UBS is a stock corporation incorporated under the laws of Switzerland with a single class of common stock—ordinary shares with a par value of 20 Swiss Francs each—that will trade on both the NYSE and the Swiss Exchange, as well as on other exchanges around the world.

UBS will solicit proxies in a manner that combines characteristics of both the Swiss and U.S. markets. This rule change interprets Paragraphs 401.03 and 402 of the Exchange's Listed Company Manual (''Manual'') to accept UBS's proposed proxy procedures.

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[3] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 III 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 an interpretation under the Exchange's rules to accommodate the listing and trading of UBS. This interpretation pertains to UBS's proxy solicitation and voting procedures, and is similar to an interpretation that the Commission approved in 1998 [3] with respect to the listing of the ordinary shares of DaimlerChrysler.[4]

Under Swiss law, only stockholders who hold shares on the date of the stockholders meeting are entitled to vote. Accordingly, the record date for voting at a stockholder meeting is the meeting date. In contrast, Exchange rules require 10 days' notice of a record date and 30 days between record and meeting date. UBS will modify its current practice to accommodate the notice periods in the United States. In Switzerland, there already are procedures to distribute preliminary agendas and other information to shareholders approximately one month before the meeting. UBS has agreed to prepare and mail stockholder meeting materials approximately 45 days prior to its meeting, permitting the solicitation of proxies in the Untied States in the currently accepted time frame. The company also has agreed to give the Exchange 10 days' notice of the record date.

The coincidence of the record and meeting date also raises the possibility that a selling shareholder could give a proxy and then sell the shares, with the buyer also getting a proxy. This could lead to double voting. In order to address this, both The Bank of New York as transfer agent (the ''Transfer Agent'') and Automatic Data Processing (''ADP''), the proxy agent for most member organizations, will institute procedures to monitor changes in the shareholder list between the date the proxy material is originally mailed out and the date of the meeting. These procedures will be designed (i) to cancel the votes of persons who submit proxies but sell their shares prior to the meeting date, and (ii) to facilitate voting by persons who purchase shares after the time the proxy material is mailed out, but before the meeting date. The second purpose of the proposed rule change is to accept these procedures as being in compliance with NYSE procedures.

Both the Transfer Agent and ADP will produce shareholder lists on the day designated for mailing the proxy material (approximately 30–45 days prior to the meeting). The Transfer Agent's list will reflect the names of registered holders and ADP's list will reflect the names of beneficial owners. Prior to the meeting date, the Transfer Agent and ADP will each produce a current shareholder list. If holders no longer appear on the list, then votes attributed to proxies submitted by them will be cancelled. If new holders appear, proxy materials will be mailed to them by the Transfer Agent, the case of registered owners, and by ADP, in the case of beneficial owners.

The shareholder lists can be updated periodically up until the date of the meeting. If practicable, proxy materials will be mailed to any new holders. This will be done on a best efforts basis. Such best efforts may include electronic notification and expedited delivery service. The proxy materials will describe voting procedures in detail. Notices will be included advising of the automatic revocation of the proxy if the holder sells stocks prior to the meeting. Finally, as a check and balance, the total vote cast in nominee name will not be permitted to exceed the total position so held.

In addition, UBS shareholders can vote in person at a shareholder's meeting. Under Swiss law, a shareholder must give the company notice of his or her intent to vote in person no later than three business days prior to the meeting, and the person must be a record holder on the meeting date.[5]

2. Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5) of the Act [6] that an exchange have rules that are 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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, N.W.,

[3] *See* Securities Exchange Act Release No. 40597 (October 23, 1998), 63 FR 58435 (October 30, 1998). That rule change also interpreted the Exchange's rules to accommodate the form of DaimlerChrysler's share certificates. The Exchange is not requesting approval of any interpretations related to UBS's share certificates.

[4] The Exchange anticipates developing and filing with the Commission such generally applicable rules as are necessary to cover matters relating to the trading of ordinary shares of non-U.S. companies, thus making company specific rule filings such as this one unnecessary. Since UBS is listing before the development work can be finalized, however, the Exchange is requesting this company-specific approval, following the DaimlerChrysler model.

[5] With respect to dividends, UBS's record date also will be the date of the company's annual meeting (like most Swiss companies, UBS pays dividends annually.) This will make it impossible to trade the stock ''ex-dividend'' on the Exchange in the normal course. Accordingly, the Exchange will use its existing flexibility under Exchange Rules 235 and 257 and Paragraph 703.02 of the Manual to trade UBS stock with ''due bills'' for the period that the stock normally would trade ex-dividend. This is a process pursuant to which the seller will receive the dividend, but is obligated to pay the dividend to the buyer of the shares. This process will be transparent to investors since due bills net out in the clearing process. To avoid any potential confusion as to the ''ex-dividend date,'' the Exchange will endeavor to transmit notices to member organizations well in advance of the dividend declaration date.

[6] 15 U.S.C. 78f(b)(5).

Washington, D.C. 20549. 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, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–00–23 and should be submitted by June 13, 2000.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the NYSE's proposal to interpret the Manual to accommodate the listing and trading of UBS shares is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[8] in that it will remove impediments to and perfect the mechanism of a free and open market, and will protect investors and the public interest, by enabling the NYSE to serve as a market for shares of UBS (rather than American depository receipts) while maintaining trading standards that are substantially equivalent to the NYSE's existing standards.

The Commission believes that it is reasonable for the NYSE to interpret the Manual to accept UBS's proxy procedures. By mailing stockholder meeting materials approximately 45 days prior to its annual meeting, UBS will give shareholders the same type of advance notification provided for in the Manual. Moreover, UBS's proxy procedures will cancel proxies for shares sold prior to the meeting, and will facilitate voting by persons who purchase shares during the month leading up to the meeting. In that way, the Exchange's proxy procedures regarding UBS appear to be substantially equivalent to the NYSE's existing standards, by permitting the votes cast at the annual meeting to accurately reflect the company's shareholders at the time of the meeting. Indeed, the Commission approved a substantially similar interpretation in 1998 to permit the NYSE to trade ordinary shares of DaimlerChrysler.[9]

The Commission notes that the Exchange states that it anticipates developing and filing generally applicable rules related to the trading of ordinary shares of non-U.S. companies, making this type of company-specific rule filing unnecessary. The Commission supports that goal, and concurs that general rules are preferable to a series of company-specific exemptions.

The Exchange has requested that the Commission approve the proposed rule change prior to the thirtieth day after its publication in the **Federal Register.** According to the Exchange, the trading of UBS shares on the Exchange is scheduled to commence on May 16, 2000. The Exchange states that in light of the significant trading interest in UBS shares and the imminence of its listing date, approving this rule as quickly as possible will help eliminate uncertainty on the part of the market participants. The Exchange also states that DaimlerChrysler ordinary shares have traded without difficulty on the Exchange since their first listing.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing in the **Federal Register.** The Commission believes that it is necessary to approve the NYSE's proposal on an accelerated basis to permit the public to begin to trade the newly issued UBS shares on the NYSE without questions about how UBS will conduct proxy voting.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act[10] that the proposed rule change (SR–NYSE–00–23) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–12927 Filed 5–22–00; 8:45 am]

BILLING CODE 8010–01–M

[7] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5).

[9] *See* note 3, *supra.*

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before June 22, 2000. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer,* Jacqueline White, Small Business Administration, 409 3rd Street, S.W., 5th Floor, Washington, D.C. 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Amendments to License Application.

Form No.: SBA Form-415C.

Frequency: On Occasion.

Description of Respondents: SBIC Investment Companies.

Annual Responses: 1,200.

Annual Burden: 300.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 00–12925 Filed 5–22–00; 8:45 am]

BILLING CODE 8025–01–U

DEPARTMENT OF STATE

[Public Notice #3310]

Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating Committee will hold a meeting on June 16, 2000 from 2 pm to 5 pm to obtain public comment on issues to be

addressed at the July 3–7, 2000 United Nations Educational, Scientific and Cultural Organization (UNESCO) meeting of governmental experts on the draft Convention on Underwater Cultural Heritage.

The meeting will be held in the Department of State located at 2201 C Street, NW, Washington, DC 20520, Room 1105. Interested members of the public are invited to attend, up to the capacity of the room. To expedite entry into the Department of State, please provide your name, social security number, and date of birth to Yvonne Seward (202) 647-3262, at least one week prior to the meeting. To enter the building you must present a photo ID, such as a drivers license or passport. Please use the entrance to the Department of State on C Street.

For further information, please contact Mr. Robert Blumberg, Office of Oceans Affairs, telephone (202) 647–4971.

Dated: May 17, 2000.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 00–12938 Filed 5–22–00; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2000–7379]

Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Number 2115–0644

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to seek the approval of OMB for the renewal of one Information Collection Request (ICR). The ICR comprises Understanding how Mariners use Aids to Navigation—A Systems Analysis Report for the U.S. Coast Guard Research and Development Center. Before submitting the ICR to OMB, the Coast Guard is asking for comments on the collection described below.

DATES: Comments must reach the Coast Guard on or before July 24, 2000.

ADDRESSES: You may mail comments to the Docket Management System (DMS) [USCG 2000–7379], U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The DMS maintains the public docket for this request. Comments will become part of this docket and will be available for inspection or copying in room PL–401, located on the Plaza Level of the Nassif Building at the above address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

Copies of the complete ICR is available through this docket on the Internet at http://dms.dot.gov and also from Commandant (G–SII–2), U.S. Coast Guard Headquarters, room 6106 (Attn: Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; Dorothy Walker, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–9330, for questions on the docket.

Request for Comments

The Coast Guard encourages interested persons to submit written comments. Persons submitting comments should include their names and addresses, identify this document [USCG 2000–7379], and give the reason for the comment. Please submit all comments and attachments in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

Information Collection Request

1. *Title:* Understanding how Mariners use Aids to Navigation—A Systems Analysis Project for the U.S. Coast Guard Research and Development Center.

OMB Control Number: 2115–0644.

Summary: The goal of the National Aids to Navigation Survey is to understand how mariners use aids in order to navigate. Navigational methods and techniques vary with the type of vessel, conditions of the waterway, and the navigator's experience.

Need: The survey is being done under the mandates of the National Performance Review and Executive order 12802. It will enable program officers in aids to navigation (AtoN) to assess navigational risk, implement appropriate AtoN strategies, and measure the effectiveness of the program in reducing the number of vessel collisions, allisions, and groundings.

Respondents: Navigators of vessels.

Frequency: On occasion.

Burden: The estimated burden is 6,518 hours annually.

Dated: May 15, 2000.

Daniel F. Sheehan,

Director of Information and Technology.

[FR Doc. 00–12876 Filed 5–22–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2000–7316]

Notice of Request for Renewal of an Information Collection; Medical Qualifications Requirements

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FMCSA solicits comment on its intent to request the Office of Management and Budget (OMB) to approve the renewal to collect information for continuation of the requirements within 49 CFR parts 391 and 398 for (1) A medical examination form and certificate to be completed by a licensed medical examiner; (2) the submission of an application to the FMCSA for the agency to resolve conflicts of medical evaluation between medical examiners; (3) a driver qualification file for motor carriers to include the medical certificate; (4) a driver qualification file for motor carriers of migrant workers to include a doctor's certificate for every driver employed or used by them; (5) a driver qualification file to include a limb disability waiver issued to a driver; and (6) information collection requirements for granting exemptions from the vision requirements in the Federal Motor Carrier Safety Regulations (FMCSRs).

DATES: Comments must be submitted on or before July 24, 2000.

ADDRESSES: Signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10 a.m. and 5

p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mrs. Sandra Zywokarte, Office of Bus and Truck Standards & Operations, (202) 366–4001, Federal Motor Carrier Safety Administration, DOT, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Medical Qualifications Requirements.

OMB Number: 2126–0006.

Background: Title 49 U.S.C. 31136 requires the Secretary of Transportation to prescribe regulations to ensure that the physical qualifications of commercial motor vehicle (CMV) operators are adequate to enable them to operate CMVs safely. In addition, 49 U.S.C. 31502 authorizes the Secretary to prescribe requirements for qualifications of employees of a motor carrier when needed to promote safety of operation. Information about an individual's physical condition must be collected in order for the FMCSA and motor carriers to verify that the individual meets the physical qualifications for CMV drivers in 49 CFR 391.41 and for the FMCSA to determine whether the individual is physically able to operate a CMV safely. This information collection is comprised of the 6 components listed in the summary.

Respondents: Medical examiners, medical specialists, physicians, licensed doctors of medicine or osteopathy, motor carriers, and CMV drivers.

Estimated Burden Per Record: Eight minutes for a medical examiner to complete the medical examination form; 1 minute for the medical examiner to complete the medical examiner's certificate; 1 minute to copy and file the medical examiner's certificate; 1 hour to prepare an application for resolution of medical conflict; 15 minutes to complete an application for an initial waiver of physical defects or impairments; 2 minutes to complete an application for a renewal of a waiver of physical defects or impairments; 1 minute to copy and file limb waiver applications; 66 minutes to complete an application for a vision exemption with required supporting documents; and 1 minute for a doctor of medicine or osteopathy to complete a doctor's certificate for a driver of migrant workers.

Frequency: Estimated annual responses are as follows: 2,750,000 medical examinations and medical certificates; 2 applications for resolution of conflicts of medical evaluation; 750 applications for waivers of physical defects and impairments; 200 applications for renewal of waiver of physical defects and impairments; 840 applications for vision exemption; 100 medical certificates for drivers of migrant workers.

Total Estimated Annual Burden: There are an estimated 5,500,000 CMV drivers, 2,750,000 per year who must undergo a medical examination. Approximately 2 cases per year are submitted to the FMCSA for a hearing before an Administrative Law Judge to resolve medical conflicts between medical examiners. There are approximately 1,500 limb waivers outstanding, resulting in 750 renewals. There are approximately 200 new applications for limb waivers annually. There are approximately 840 new applications for vision exemptions annually. Since the vision exemption program is new, the agency has not yet received any applications for renewal. The total estimated annual burden for this information collection is 459,321 hours.

Public Comments Invited

Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) Whether the collection of information is necessary for the proper performance of the functions of the FMCSA, including whether the information has practical utility; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information.

Electronic Availability

An electronic copy of this document may be downloaded from the Internet, from the Office of the Federal Register web site: *http://www.nara.gov/fedreg,* or the U.S. Government Printing Office web site: *http://www.access.gpo.gov/nara.* Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* This service is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

Authority: 49 U.S.C. 315 and 49 CFR 1.73.

Issued on: May 14, 2000.

Julie Anna Cirillo,

Acting Deputy Administrator, Federal Motor Carrier Safety Administration.

[FR Doc. 00–12874 Filed 5–22–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of denials.

SUMMARY: The FMCSA is publishing the names of persons denied exemptions from the vision standard in 49 CFR 391.41(b)(10) and the reasons for the denials.

DATES: May 23, 2000.

FOR FURTHER INFORMATION CONTACT: For information about the applications addressed in this notice, Ms. Teresa Doggett, Office of Bus and Truck Standards and Operations, MC–PSD, (202) 366–2990; for information about legal issues related to this rule, Ms. Judith Rutledge, Office of the Chief Counsel, (202) 366–2519, FMCSA, 400 Seventh Street, SW., Washington, D.C. 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Registers home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

The Secretary of Transportation (Secretary) has the authority under 49 U.S.C. 31502 and 31136 to establish standards for physical qualifications that must be met by commercial motor vehicle drivers in interstate commerce. These standards are published in 49 CFR part 391 of the Federal Motor Carrier Safety Regulations.

In October 1999, the Secretary rescinded the authority previously delegated to the Federal Highway Administrator to perform the motor carrier functions and operations, and to

carry out the duties and powers related to motor carrier safety, that are statutorily vested in the Secretary. That authority was redelegated to the Director of the Office of Motor Carrier Safety (OMCS), a new office within the Department (64 FR 56270, October 19, 1999, and 64 FR 58356, October 29, 1999). The OMCS had previously been the FHWA's Office of Motor Carriers (OMC).

The Motor Carrier Safety Improvement Act of 1999 established the Federal Motor Carrier Safety Administration (FMCSA) as a new operating administration within the Department of Transportation, effective January 1, 2000 (Pub. L. No. 106–159, 113 Stat. 1748, December 9, 1999). The Secretary therefore rescinded the motor carrier authority delegated to the Director of the OMCS and redelegated it to the Administrator of the FMCSA (65 FR 220, January 4, 2000).

The staff previously assigned to the FHWA's OMC, and then to the OMCS, are now assigned to the FMCSA. The motor carrier functions of the FHWA's Resource Centers and Division (*i.e.,* State) Offices have been transferred without change to the FMCSA Resource Centers and FMCSA Division Offices, respectively. For the time being, all phone numbers and addresses are unchanged. Similarly, rulemaking activities begun under the auspices of the FWHA and continued under the OMCS will be completed by the FMCSA.

On June 9, 1998, the FHWA's waiver authority changed with enactment of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107. Section 4007 of TEA–21 amended the waiver provisions of 49 U.S.C. 31136(e) and 31315 to change the standard for evaluating waiver requests, to distinguish between a waiver and an exemption, and to establish term limits for both. Under revised section 31136(e), the FMCSA may grant a waiver for a period of up to 3 months or an exemption for a renewable 2-year period.

The amendments to 49 U.S.C. 31136(e) also changed the criteria for exempting a person from application of a regulation. Previously an exemption was appropriate if it was consistent with the public interest and the safe operation of CMVs. Now the FMCSA may grant an exemption if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' According to the legislative history, the Congress changed the statutory standard to give the agency greater discretion to consider exemptions. The previous standard was judicially construed as requiring an advance determination that absolutely no reduction in safety would result from an exemption. The Congress revised the standard to require that an ''equivalent'' level of safety be achieved by the exemption.

The FMCSA individually evaluated 141 exemption requests on their merits, as required by the decision in *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration,* 95 F. 3d. 715 (8th Cir. 1996), and determined that the applicants do not satisfy the criteria established to demonstrate that granting the exemptions is likely to achieve an equal or greater level of safety than exists without the exemption. Each applicant has, prior to this notice, received a letter of final disposition on his/her individual exemption request. Those decision letters fully outlined the basis for the denial and constitute final agency action. The list published today summarizes the agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reason for denials.

Ninety-two applicants lacked sufficient recent driving experience over the past 3 years. Twenty-nine applicants lacked at least 3 years of experience driving a commercial motor vehicle with the vision deficiency. Fourteen applicants had no experience driving a commercial motor vehicle and therefore presented no evidence from which the FMCSA could conclude that granting the exemption would likely achieve a level of safety equal to that existing without the exemption. Two drivers had waivers for the loss of a limb and therefore could not qualify for a vision exemption because they did not satisfy all other physical qualification standards in 49 CFR 391.41(b) to drive a commercial motor vehicle. In addition to their vision deficiency, they had missing limbs. One driver was diagnosed with high blood pressure, in addition to the vision deficiency, and could not qualify for the vision exemption because the physical qualification standards could not be satisfied. Another driver could not qualify for the exemption because he was convicted of three speeding violations in a three-year period and received a fourth speeding violation during the application process. An applicant for the vision exemption is only allowed two violations in a three-year period.

The agency is required to publish the names of persons who were not granted an exemption from the Federal vision requirements and the reasons for not granting the exemptions. The FMCSA has declined to consider the following applications for exemptions from the Federal vision requirements at 49 CFR 391.41(b)(10) because they lack sufficient evidence of the necessary criteria to find ''such exemptions would likely achieve a level of safety that is equivalent to or greater than, the level that would be achieved absent such exemption.''

Summary of Causes for Not Granting Exemptions

The FMCSA is not granting the following petitions for exemption from the vision standard in 49 CFR 391.41(b)(10). In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), the agency is publishing notice of the names of the applicants and reasons for not granting exemptions.

1. Eldo J. Haugen

Mr. Haugen was diagnosed with high blood pressure and therefore does not meet all other physical requirements, excluding vision, to qualify for an exemption. He does not qualify for an exemption because he is not ''otherwise qualified'' to drive a CMV.

2. Gary A. Smith

Mr. Smith does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

3. Louis Ingwersen

Mr. Ingwersen does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safety performance.

4. Jefferson S. Thomas

Mr. Thomas does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safety performance.

5. Lloyd H. Walters

Mr. Walters does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safety performance.

6. Robert L. Bowman

Mr. Bowman does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an

adequate predictor of future safety performance.

7. Martin G. Taylor

Mr. Taylor does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

8. Alvin F. Schroll

Mr. Schroll does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safety performance.

9. Lawrence A. Lundquist

Mr. Lundquist does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safety performance.

10. Ronald A. Mills

Mr. Mills does not have 3 years recent experience driving a commercial vehicle with his vision deficiency.

11. Norman E. Schluter

Mr. Schluter does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safety performance.

12. Roland R. Strempke

Mr. Strempke does not have any experience driving a commercial motor vehicle with his vision deficiency.

13. Carolyn M. Beauvais

Ms. Beauvais has no experience operating a commercial motor vehicle and therefore presented no evidence from which the FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption.

14. Robert L. Slayden, Jr.

Mr. Slayden does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safety performance.

15. Gary D. Beavers

Mr. Beavers does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safety performance.

16. Mitchell L. Carson

Mr. Carson has no experience operating a commercial motor vehicle and therefore presented no evidence from which the FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption.

17. Willis M. Reeves

Mr. Reeves does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

18. Harold E. Pepperling

Mr. Pepperling does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

19. James E. Rhodes, II

Mr. Rhodes does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

20. Ronald D. Danberry

Mr. Danberry does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

21. Jimmy Joe Dougherty

Mr. Dougherty does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

22. Frank D. Pfeifer

Mr. Pfeifer has an amputation of his left hand and currently holds a Waiver of Physical Defects. As he does not meet all of the other physical standards in 49 CFR 391.41, without any other waiver or exemption, he failed to satisfy the criteria applied to evaluate vision exemption requests. In light of the recent decision in *Parker* v. *FHWA,* 207 F.3d 359 (6th Cir. 2000), we will reconsider Mr. Pfeifer's application consistent with the court's holding.

23. William R. Bass, Jr.

Mr. Bass does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

24. Roger D. Smith

Mr. Smith does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

25. John C. Anderson

Mr. Anderson does not have 3 years of experience driving a commercial motor vehicle with his vision deficiency.

26. Jimmy R. Hollingshad

Mr. Hollingshad has no experience operating a commercial motor vehicle and therefore presented no evidence from which the FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption.

27. Nikki B. Strom

Ms. Strom does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

28. Odell Scott

Mr. Scott does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance. Mr. Scott has a revocation of his CDL which also disqualifies him from receiving an exemption.

29. Thomas W. Markham

Mr. Markham does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

30. Barry I. Murtha

Mr. Murtha does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

31. Mark A. Miller

Mr. Miller does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

32. Russell D. Mertens

Mr. Mertens does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

33. Robert H. Niederdeppe

Mr. Niederdeppe does not have 3 years of experience driving a commercial motor vehicle with his vision deficiency.

34. Thomas E. Hammond, Sr.

Mr. Hammond does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

35. Michael Dupell

Mr. Dupell does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

36. Kenneth L. Taylor

Mr. Taylor does not have 3 years of experience driving a commercial motor vehicle with his vision deficiency.

37. Marvin L. Muilenburg

Mr. Muilenburg does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

38. Gregory B. Roberts

Mr. Roberts does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

39. Abe A. Fehr

Mr. Fehr does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

40. Jerry L. Paulsen

Mr. Paulsen does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

41. Timothy D. McDaniel

Mr. McDaniel has no experience operating a commercial motor vehicle and therefore presented no evidence from which the FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption.

42. David A. Ferguson

Mr. Ferguson does not have 3 years of experience driving a commercial motor vehicle with his vision deficiency.

43. John V. Cascone

Mr. Cascone has no experience operating a commercial motor vehicle and therefore presented no evidence from which the FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption.

44. John D. McCormick

Mr. McCormick does not have 3 years of experience driving a commercial motor vehicle with his vision deficiency.

45. Gary W. Lindsey, Jr.

Mr. Lindsey has no experience operating a commercial motor vehicle and therefore presented no evidence from which the FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption.

46. Mona J. Meyers

Ms. Myers does not have 3 years recent experience driving a commercial motor vehicle with her vision deficiency.

47. Dorian N. Holladay

Mr. Holladay had three commercial motor vehicle speeding violations within a 3-year period while operating a commercial motor vehicle and during the application process he received a fourth speeding violation in a commercial motor vehicle. He does not qualify since each applicant is allowed only 2 citations.

48. Roger D. Duggins

Mr. Duggins does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

49. Duane B. Coggin

Mr. Coggin does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

50. Morris R. Beebe

Mr. Beebe does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

51. Anthony R. Miles

Mr. Miles does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

52. David L. Burroughs

Mr. Burroughs does not have 3 years of experience driving a commercial motor vehicle with his vision deficiency.

53. John D. Prather, Jr.

Mr. Prather does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

54. Eddie M. Brown

Mr. Brown does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

55. Thomas G. Danclovic

Mr. Danclovic does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

56. Kim A. Shaffer

Mr. Shaffer does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

57. James H. Martin

Mr. Martin does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

58. Joseph R. Maillet, Jr.

Mr. Maillet does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

59. Vincent J. Hayhurst

Mr. Hayhurst does not have 3 years of experience driving a commercial motor vehicle with his vision deficiency.

60. David O. Caldwell

Mr. Caldwell does not have 3 years of experience driving a commercial motor vehicle with his vision deficiency.

61. Kenneth G. Mallette

Mr. Mallette does not have 3 years of experience driving a commercial motor vehicle with his vision deficiency.

62. Micheal L. Metivier

Mr. Metivier has no experience operating a commercial motor vehicle and therefore presented no evidence from which the FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption.

63. Chris W. Hageman

Mr. Hageman does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

64. Kyle P. McGill

Mr. McGill does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

65. Randall G. Henderson

Mr. Henderson does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

66. Alonza V. Ferrell

Mr. Ferrell does not have 3 years of experience driving a commercial motor vehicle with his vision deficiency.

67. Kenneth W. Lyons

Mr. Lyons does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

68. Howard G. Williams

Mr. Williams does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

69. Dana Quince

Mr. Quince does not have 3 years of recent experience driving a commercial motor vehicle with his vision deficiency.

70. Raymond J. Misslich

Mr. Misslich does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

71. Sherman R. Garrett

Mr. Garrett does not have 3 years of experience driving a commercial motor vehicle with his vision deficiency.

72. Johnny L. Nesbitt, Jr.

Mr. Nesbitt does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

73. David A. Christenson

Mr. Christenson does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

74. Donald A. Verrill

Mr. Verrill does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

75. Dennis C. Madison, Sr.

Mr. Madison does not have 3 years of experience driving a commercial motor vehicle with his vision deficiency.

76. Michael J. Sullivan

Mr. Sullivan has no experience operating a commercial motor vehicle and therefore presented no evidence from which the FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption.

77. Ronald W. Winslow

Mr. Winslow does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

78. Warren Streeter

Mr. Streeter does not have 3 years of experience driving a commercial motor vehicle with his vision deficiency.

79. William J. Wilkins

Mr. Wilkins does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

80. Ambrosio E. Calles

Mr. Calles does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

81. Arnold G. Patchin

Mr. Patchin does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

82. Steven M. Montalbo

Mr. Montalbo does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

83. Leonard D. Berogan

Mr. Berogan has no experience operating a commercial motor vehicle and therefore presented no evidence from which the FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption.

84. Bobby G. Carr

Mr. Carr does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

85. Edward C. Miller

Mr. Miller has no experience operating a commercial motor vehicle and therefore presented no evidence from which the FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption.

86. John E. Kramer

Mr. Kramer does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

87. Donald R. Good

Mr. Good does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

88. Rocky D. Rubink

Mr. Rubink does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

89. Charles L. Croster

Mr. Croster does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

90. Tony E. Parks

Mr. Parks does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

91. Steven G. Lee

Mr. Lee does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

92. John R. Osborne

Mr. Osborne does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

93. James G. Binkley

Mr. Binkley does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

94. James D. Raley

Mr. Raley does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

95. John L. Casner

Mr. Casner does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

96. Dennis J. Christensen

Mr. Christensen does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

97. Charles F. Schmidt

Mr. Schmidt does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

98. Linda L. Billings

Ms. Billings does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

99. Carl D. Hopkins

Mr. Hopkins does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

100. Darin P. Milton

Mr. Milton does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

101. Brian H. Spencer

Mr. Spencer does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

102. Fred A. Christopherson

Mr. Christopherson does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

103. David A. Feindel

Mr. Feindel does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

104. Donald Thompson

Mr. Thompson does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

105. Daniel Hollins

Mr. Hollins does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

106. Christopher J. Kane

Mr. Kane does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

107. Caroleah Baker

Ms. Baker does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

108. Tommy L. McKnight

Mr. McKnight does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

109. Larry E. Dunn

Mr. Dunn does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

110. Melvin T. Bullock

Mr. Bullock does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

111. Gerald L. Craig

Mr. Craig does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

112. Lewis E. Armstrong

Mr. Armstrong does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

113. Edwin J. DarDar

Mr. DarDar does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

114. David E. Miller

Mr. Miller does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

115. Wesley E. Jones

Mr. Jones does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

116. David W. Smith

Mr. Smith does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an

adequate predictor of future safe performance.

117. Michael L. Eckstein, Sr.

Mr. Eckstein does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

118. Michael T. Howes

Mr. Howes does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

119. Peter D. Wehner

Mr. Wehner does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

120. Richard N. Bowling, Sr.

Mr. Bowling does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

121. Kenneth Allen, Jr.

Mr. Allen does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

122. Jerry W. Parker

Mr. Parker has a missing left arm and therefore does not meet all other physical requirements, excluding vision, to qualify for an exemption. The FMCSA is reconsidering its denial in accordance with *Parker* v. *FHWA,* 207 F.3d 359 (6th Cir. 2000).

123. Nathan A. Buckles

Mr. Buckles does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

124. Belinda Betancur

Ms. Betancur does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

125. John F. Ellington

Mr. Ellington does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

126. Eric D. Bennett

Mr. Bennett does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

127. Jerry D. Lawson

Mr. Lawson does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

128. Jimmy L. Spates

Mr. Spates does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

129. Steve L. Hopkins

Mr. Hopkins does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

130. Willie O. Evans, Sr.

Mr. Evans has no experience operating a commercial motor vehicle and therefore presented no evidence from which the FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption.

131. Jimmy Cuttino

Mr. Cuttino has no experience operating a commercial motor vehicle and therefore presented no evidence from which the FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption.

132. Anthony L. Dewalt

Mr. Dewalt does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

133. Scott K. Kenyon

Mr. Kenyon has no experience operating a commercial motor vehicle and therefore presented no evidence from which the FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption.

134. Raymond E. Umphrey

Mr. Umphrey does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

135. William R. Farrington

Mr. Farrington does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

136. Donald S. Ellison

Mr. Ellison does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

137. Scott Alan Boyd

Mr. Boyd has no experience operating a commercial motor vehicle and therefore presented no evidence from which the FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption.

138. Robert E. Almond

Mr. Almond does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

139. Christopher F. Vanstory

Mr. Vanstory does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

140. Robert L. Nix

Mr. Nix does not have 3 years of experience driving a commercial vehicle with his vision deficiency.

141. Ofelio Estrada

Mr. Estrada does not have sufficient driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

Authority: 49 U.S.C. 322, 31315, and 31136; 49 CFR 1.73

Issued on: May 12, 2000.

Julie Anna Cirillo,

Acting Deputy Administrator.

[FR Doc. 00–12929 Filed 5–22–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2000–7165]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of petitions and intent to grant applications for exemption; request for comments.

SUMMARY: This notice announces the FMCSA's preliminary determination to grant the applications of 63 individuals for an exemption from the vision requirements in the Federal Motor Carrier Safety Regulations (FMCSRs). Granting the exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

DATES: Comments must be received on or before June 22, 2000.

ADDRESSES: Your written, signed comments must refer to the docket number at the top of this document, and you must submit the comments to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Ms. Judith Rutledge, Office of the Chief Counsel, (202) 366–2519, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Creation of New Agency

On December 9, 1999, the President signed the Motor Carrier Safety Improvement Act of 1999 (Public Law 106–159, 113 Stat. 1748). The new statute established the Federal Motor Carrier Safety Administration in the Department of Transportation. On January 4, 2000, the Secretary rescinded the authority previously delegated to the Office of Motor Carrier Safety (OMCS) (65 FR 220). This authority is now delegated to the FMCSA.

The motor carrier functions of the OMCS' Resource Centers and Division (i.e., State) Offices have been transferred to FMCSA Service Centers and FMCSA Division Offices, respectively. Rulemaking, enforcement, and other activities of the Office of Motor Carrier Safety while part of the FHWA, and while operating independently of the FHWA, will be continued by the FMCSA. The redelegation will cause no changes in the motor carrier functions and operations previously handled by the FHWA or the OMCS. For the time being, all phone numbers and addresses are unchanged.

Background

Sixty-three individuals have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Under 49 U.S.C. 31315 and 31136(e), the FMCSA (and previously the FHWA) may grant an exemption for a renewable 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' Accordingly, the FMCSA has evaluated each of the 63 exemption requests on its merits, as required by 49 U.S.C. 31315 and 31136(e), and preliminarily determined that exempting these 63 applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption.

Qualifications of Applicants

1. Elijah Allen, Jr.

Mr. Elijah Allen, 36, has amblyopia in his left eye. His best corrected visual acuity is 20/20 in the right eye and 20/400 in the left eye. He was examined in 1999 by an ophthalmologist who stated, ''In my opinion, because of his current driving record, I believe he has sufficient vision to perform the tasks that he needs in order to operate a commercial vehicle.''

Mr. Allen has driven tractor-trailer combination vehicles for 14 years, accumulating over 2 million miles. He holds an Arkansas Class A CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the past 3 years.

2. Charles Leon Baney

Mr. Charles Leon Baney, 61, has amblyopia in his right eye. His best corrected visual acuity is 20/20 in his left eye and 20/400 in the right eye. He was examined in 1999 and his optometrist stated, ''My clinical impression is that Mr. Baney's vision is sufficient to perform the driving tasks required to operate a commercial vehicle.''

Mr. Baney has driven straight trucks for 5 years, accumulating 60,000 miles; tractor-trailer combination vehicles for 6 years, accumulating over 540,000 miles; and buses for 2 years, accumulating over 4,000 miles. He holds an Illinois CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the past 3 years.

3. Walter F. Blair

Mr. Walter F. Blair, 63, has been blind in his left eye since the age of 5 due to trauma. The visual acuity in his right eye is 20/20, uncorrected. He was examined in 1999 by an optometrist who stated, ''In my medical opinion, this person has sufficient vision to perform the driving tasks required to operate a commercial vehicle.''

Mr. Blair has driven straight trucks for 31 years, accumulating 620,000 miles. He holds a Tennessee Class B CDL. His official driving record shows no accidents or convictions of moving violations in a CMV during the past 3 years.

4. Jullie A. Bolster

Ms. Jullie A. Bolster, 50, has had diffuse haze and corneal scarring due to severe keratitis in her left eye since 1995. Her best corrected visual acuity is 20/20 in her right eye and 20/200 in her left eye. She was examined in 1999 by an ophthalmologist who stated, ''I feel at this time she has sufficient vision to perform driving tasks required to operate a commercial vehicle.''

Ms. Bolster has driven tractor-trailer combination vehicles for over 6.5 years, accumulating over 260,000 miles. She holds a Montana Class A CDL. Her official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

5. Gary Bryan

Mr. Gary Bryan, 51, has had an ocular toxoplasmosis scar in his right eye since childhood. His best corrected visual acuity is 20/20 in the left eye and 20/400 in the right eye. He was examined in 1999 by an optometrist who stated, ''His vision is sufficient to perform the driving tasks required to operate a commercial vehicle.''

Mr. Bryan has driven straight trucks for 10 years, accumulating 250,000 miles and tractor-trailer combination vehicles for 15 years, accumulating 525,000 miles. He holds a Montana Class A CDL. His official driving record shows no accidents and no convictions of moving violations in a CMV for the last 3 years.

6. Timothy John Bryant

Mr. Timothy John Bryant, 42, has had optic nerve damage in his left eye since birth. His best corrected vision is 20/20 in his right eye and 20/200 in his left eye. He was examined in 1999 by an ophthalmologist who stated, ''I feel that Mr. Bryant's vision is adequate to operate a commercial vehicle.''

Mr. Bryant has operated straight trucks for 10 years, accumulating 500,000 miles and tractor-trailer combination vehicles for 4 years, accumulating over 260,000 miles. He holds a Florida Class A CDL. His official driving history shows no accidents or convictions of moving violations in a CMV for the last 3 years.

7. Thomas A. Burke

Mr. Thomas A. Burke, 56, has amblyopia in his left eye. His best corrected visual acuity is 20/20 in the right eye and 20/100 in the left eye. He was examined in 1999 by an ophthalmologist who stated, ''In view of his driving record and experience and the fact that nothing has changed, that his vision is stable, I feel that he is definitely safe to qualify to continue driving a commercial vehicle.''

Mr. Burke has driven tractor-trailer combination vehicles for 20 years, accumulating over 425,000 miles. He holds a Michigan Class A CDL. His official driving record shows no accidents and no convictions of moving violations in a CMV for the last 3 years.

8. Monty Glenn Calderon

Mr. Monty Glenn Calderon, 34, has amblyopia in his right eye. His best corrected visual acuity is 20/20 in his left eye and 20/400 in his right eye. According to a 1999 examination, his ophthalmologist stated, ''Mr. Calderon should be able to operate a commercial vehicle.''

Mr. Calderon has driven a straight truck for 4 years and has accumulated 180,000 miles of driving. He holds an Ohio Class A CDL. His official driving record shows no accidents or convictions of moving violations in a CMV in the last 3 years.

9. Ronald Lee Carpenter

Mr. Ronald Lee Carpenter, 56, has amblyopia in his left eye. His best corrected visual acuity is 20/20 in his right eye and 20/100 in his left eye. He was examined in 1999 by his optometrist who stated, ''In my opinion, Mr. Carpenter has the visual skills to perform the driving tasks required to operate a commercial vehicle.''

Mr. Carpenter has driven tractor-trailer combination vehicles for 20 years, totaling 200,000 miles. He holds an Oklahoma CDL. His official driving record shows no accidents and no convictions of any moving violations in a CMV during the past 3 years.

10. Charles Casey Chapman

Mr. Charles Casey Chapman, 30, has reduced vision in his right eye due to trauma at the age of 10. His best corrected visual acuity is 20/20 in the left eye and 20/200 in the right eye. He was examined in 1999 by an optometrist who stated, ''should be able to drive a truck because condition has existed over 18 yr. [sic] with no problems.''

Mr. Chapman has driven straight trucks for 7 years, accumulating 560,000 miles. He holds a North Carolina Class B CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

11. Milton Coleman

Mr. Milton Coleman, 52, has been blind in his right eye since the age of 3 due to an injury. His best corrected visual acuity in his left eye is 20/20. He was examined in 1999 by an optometrist who stated, ''I feel Mr. Coleman can safely operate a commercial vehicle if he utilizes a compensatory head turn toward R [sic] shoulder to widen his effective visual field.''

Mr. Coleman has driven tractor-trailer combination vehicles for 8 years, accumulating 4 million miles. He holds a California Class A CDL. His official driving record shows one accident. No injury was involved and no citations were issued to either party. The driving record shows no convictions of moving violations in a CMV for the last 3 years.

12. David Earl Corwin

Mr. David Earl Corwin, 51, has been blind in his left eye since childhood. His best corrected visual acuity is 20/20 in his right eye. He was examined in 1999, and his optometrist stated, ''At this time his vision is stable and in my opinion sufficient to perform the tasks required to operate a commercial vehicle.''

Mr. Corwin has driven straight trucks for 25 years, accumulating over 1.2 million miles. He holds a Idaho CDL. His official driving record shows no accidents and no convictions of moving violations in a CMV during the past 3 years.

13. Adam D. Craig

Mr. Adam D. Craig, 56, has macular degeneration in his left eye. His best corrected visual acuity is 20/20 in his right eye and 20/200 in his left eye. According to a 1999 examination, his ophthalmologist stated, ''It is my medical opinion that due to the excellent vision in the right eye and his full visual fields in both eyes, that Mr. Craig should have no restrictions to a commercial vehicle license.''

Mr. Craig has driven straight trucks for 16 years and tractor-trailer combination vehicles for 18 years, accumulating over 1.4 million miles. He holds an Indiana Class A CDL. His official driving record for the last 3 years shows no accidents or convictions of moving violations in a CMV.

14. Eric L. Dawson, III

Mr. Eric L. Dawson, 55, has had a corneal scar secondary to herpes zoster in his left eye since 1986. His best corrected visual acuity is 20/20 in his right eye and 20/80 in his left eye. He was examined in 1999, and his ophthalmologist stated that, in her medical opinion, Mr. Dawson has sufficient vision to perform the driving tasks required to operate a commercial vehicle.

Mr. Dawson has driven straight trucks for 38 years and tractor-trailer combination vehicles for 25 years, accumulating over 1.6 million miles. He holds a North Carolina CDL. His official driving record shows no accidents or convictions for moving violations in a CMV for the last 3 years.

15. Richard L. Derick

Mr. Richard L. Derick, 46, has amblyopia in his left eye. His best corrected visual acuity is 20/20 in the right eye and 20/400 in the left eye. He was examined in 1999 by an optometrist who stated, ''I do not feel that the central visual condition in his left eye will significantly detract from his ability to *safely* drive a commercial vehicle, if at all.''

Mr. Derick has driven straight trucks for 4 years, accumulating 120,000 miles and tractor-trailer combination vehicles

for 12 years, accumulating over 1.2 million miles. He holds a New Hampshire Class A CDL. His official driving record shows no accidents and no convictions of moving violations in a CDL for the last 3 years.

16. Joseph A. Dunlap

Mr. Joseph A. Dunlap, 34, has amblyopia in his left eye. His best corrected visual acuity is 20/20 in the right eye and 20/80− in the left eye. He was examined in 1999 and his ophthalmologist stated, ''He, to my knowledge, has an excellent driving record with no history of accidents or traffic violations. This record has been achieved with his present visual status, and as long as the results of his current visual exam meet your requirements, I see no reason why he cannot continue to drive a commercial vehicle.''

Mr. Dunlap has driven straight trucks for 13 years and tractor-trailer combination vehicles for 9 years, accumulating over 600,000 miles. He holds an Ohio CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

17. John C. Edwards, Jr.

Mr. John C. Edwards, 63, has longstanding macular scarring in his right eye. His best corrected visual acuity is 20/40 in his left eye and 20/400 in his right eye. He was examined in 1999, and his ophthalmologist stated, ''In my opinion Mr. Edwards' vision has not deviated and has been stable for well over ten years. I expect his vision to remain that way. I feel he has maintained the ability to operate a commercial vehicle.''

Mr. Edwards has driven straight trucks for 8 years and tractor-trailer combination vehicles for 26 years, accumulating over 3 million miles. He holds a Mississippi CDL. His official driving record shows no accidents or convictions of moving violations in a CMV in the last 3 years.

18. Calvin J. Eldridge

Mr. Calvin J. Eldridge, 55, is blind in his right eye due to an injury at age twelve. His best corrected visual acuity in his left eye is 20/15. He was examined by his optometrist in 1999 who stated, ''In my opinion, Calvin Eldridge has sufficient vision to perform the driving tasks required to operate a commercial vehicle.''

Mr. Eldridge has driven tractor-trailer combination vehicles for 27 years and a total of 2.7 million miles. He has a Washington CDL. His official driving record shows no accidents and 2 non-serious speeding violations in a CMV during the past 3 years.

19. Ronald G. Ellwanger

Mr. Ronald G. Ellwanger, 65, has macular degeneration in his right eye. His best corrected visual acuity is 20/20 in the left eye and 20/80 in the right eye. He was examined in 1999 and his ophthalmologist stated, ''I certify that this patient has sufficient vision to safely perform the driving tasks required to operate a commercial vehicle.''

Mr. Ellwanger has driven straight trucks for 40 years, accumulating at least 2 million miles during that period. He holds a Virginia CDL. His official driving record shows no accidents or convictions of moving violations in a CMV during the last 3 years.

20. Marcellus Albert Garland

Mr. Marcellus Albert Garland, 61, has been blind in his left eye due to an accident since 1967. His best corrected visual acuity in his right eye is 20/20. He was examined by an optometrist in 1999 who stated, ''In my professional opinion Mr. Garland has sufficient visual function to perform the driving tasks required to operate a commercial vehicle.''

Mr. Garland has driven straight trucks for 3 years, accumulating 90,000 miles and tractor-trailer combination vehicles for 31 years, accumulating 2.5 million miles. He holds a California Class A CDL. His official driving record shows 1 accident in a CMV in which there were no injuries and no citations issued. It also shows one speeding violation in a CMV during the last 3 years.

21. George J. Ghigliotty

Mr. George J. Ghigliotty, 56, has amblyopia in his right eye. His best corrected visual acuity is 20/20 in the left eye and 20/60 in the right eye. He was examined in 1999 by an optometrist who stated, ''It is my opinion that this patient has sufficient vision to drive a commercial vehicle.''

Mr. Ghigliotty has driven tractor-trailer combination vehicles for 38 years, accumulating 3.8 million miles. He holds a Florida Class A CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the past 3 years.

22. Ronald E. Goad

Mr. Ronald E. Goad, 53, has worn a prosthesis in his left eye since 1956 due to an accident. His best corrected visual acuity in his right eye is 20/20. He was examined by his optometrist in 1999 who stated, ''Mr. Ronald Goad has sufficient vision to operate a commercial vehicle.''

Mr. Goad has driven straight trucks for 33 years totaling more than 260,000 miles and tractor-trailer combination vehicles for 10 years, having accumulated anywhere between 5,000 and 75,000 miles per year, depending on the company for which he was employed. He holds a Maryland CDL. His official driving record shows no accidents or convictions of moving violations in a CMV during the past 3 years.

23. Steven F. Grass

Mr. Steven F. Grass, 30, has been blind in his left eye since the age of 2 due to injury. His best corrected visual acuity in his right eye is 20/20. He was examined in 1999 by an optometrist who stated, ''Mr. Grass is very well adapted to using only the vision in his right eye. He is able to function normally. *I believe that there is no reason for him to not be able to operate a commercial vehicle safely.*''

Mr. Grass has operated tractor-trailer combination vehicles for 6 years, accumulating over 300,000 miles and straight trucks for 1 year, accumulating 10,000 miles. He holds a New Mexico Class A CDL. His official driving record shows no accidents and one conviction of a moving violation (Failure to Obey Traffic Signal/Light) in a CMV during the last 3 years.

24. Randolph D. Hall

Mr. Randolph D. Hall, 59, has had reduced vision in his right eye since childhood, probably as the result of an infection of the macula. His best corrected visual acuity is 20/20 in his left eye and 20/800 in his right eye. He was examined in 1999 by an optometrist who stated, ''In my opinion, with his excellent vision in his left eye and great peripheral vision in both eyes, there is no reason why he can't operate a commercial truck and trailer.''

Mr. Hall has operated tractor-trailer combination vehicles for 29 years, accumulating over 2 million miles. He holds a Florida Class A CDL. His official driving record shows no accidents and no convictions of moving violations in a CMV for the past 3 years.

25. Reginald I. Hall

Mr. Reginald I. Hall, 43, has amblyopia in his left eye. His best corrected visual acuity is 20/20 in the right eye and 20/200 in the left eye. He was examined in 1999 by an ophthalmologist who stated, ''Based upon my medical opinion, Mr. Hall has shown an exemplary driving record and has sufficient vision to operate a commercial vehicle.''

Mr. Hall has driven straight trucks for 12 years, accumulating 432,000 miles and tractor-trailer combination vehicles for 10 years, accumulating 540,000 miles. He holds a Texas Class A CDL. His official driving record shows no accidents and no convictions of moving violations in a CMV for the last 3 years.

26. Sherman William Hawk, Jr.

Mr. Sherman William Hawk, Jr., 48, has a long-standing retinal scar in his left eye. His best corrected visual acuity is 20/20 in his right eye and 20/150 in his left eye. He was examined in 1999 by an optometrist who stated, ''In my professional opinion, Mr. Hawk possesses sufficient vision to perform the driving tasks required to operate a commercial vehicle.''

Mr. Hawk has driven straight trucks for 13 years, accumulating over 800,000 miles and tractor-trailer combination vehicles for 10 years, accumulating 600,000 miles. He holds a Maryland Class AM CDL. His official driving record shows no accidents and no convictions of moving violations in a CMV for the last 3 years.

27. Daniel J. Hillman

Mr. Daniel J. Hillman, 56, has a history of retinal disease which has caused a significant loss of visual acuity in the right eye. His best corrected vision is 20/25–3 in the left eye and 20/70 in the right eye. He was examined in 1999 by an optometrist who stated, ''I feel Daniel Hillman is visually capable of performing well as a commercial driver.''

Mr. Hillman has driven tractor-trailer combination vehicles for 28 years, accumulating 2.8 million miles. He holds a Washington Class A CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

28. Gordon William Howell

Mr. Gordon William Howell, 45, has been blind in his right eye for the last 10 years. His best visual acuity in his left eye is 20/20 uncorrected. He was examined by an ophthalmologist in 1999 who stated, ''He has been driving commercial last 12 yr [sic] so it is my opinion he has sufficient vision to do so.''

Mr. Howell has driven tractor-trailer combination vehicles for 22 years, accumulating more than 330,000 miles. He holds a Washington Class A CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

29. Roger Louis Jacobson

Mr. Roger Louis Jacobson, 72, suffered permanent, stable visual loss in his right eye as the result of an accident in 1968. His best corrected visual acuity is 20/20 in the left eye and light perception in the right eye. He was examined in 1999 by an ophthalmologist who stated, ''Mr. Jacobson's long standing visual acuity and performance as a monocular driver more than qualifies him to operate a commercial motor vehicle throughout the United States.''

Mr. Jacobson has driven straight trucks for 4 years, accumulating 4,800 miles and tractor-trailer combination vehicles for 49 years, accumulating over 4 million miles. He holds an Arizona Class A CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

30. Robert C. Jeffres

Mr. Robert C. Jeffres, 58, has been blind in his left eye due to injury since 1991. His best corrected visual acuity is 20/15 in the right eye. He was examined by an optometrist in 1999 who stated, ''In my medical opinion Robert Jeffres has sufficient vision to perform the driving tasks required to operate a commercial vehicle.''

Mr. Jeffres has driven straight trucks for 41 years, accumulating 205,000 miles and tractor-trailer combination vehicles for 30 years, accumulating 2.4 million miles. He holds a Wyoming Class A CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

31. Alfred C. Jewell, Jr.

Mr. Alfred C. Jewell, Jr., 45, has amblyopia in his right eye. His best corrected visual acuity is 20/20+ in the left eye and 20/100− in the right eye. He was examined in 1999 by an optometrist who stated, ''This patient has been driving commercial vehicles all of his adult life. There have been no visual decreases during that time. I feel that for this individual, the vision is sufficient.''

Mr. Jewell has driven tractor-trailer combination vehicles for 27 years, accumulating over 3.7 million miles. He holds a Wyoming Class A CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

32. Anton R. Kibler

Mr. Anton R. Kibler, 46, has amblyopia in his right eye. His best corrected vision is 20/20 in his left eye and 20/100+ in his right eye. He was examined by an optometrist in 1999 who stated, ''In my opinion, applicant has sufficient vision to perform the driving tasks required to operate a commercial vehicle.''

Mr. Kibler has driven straight trucks for 29 years, accumulating 667,000 miles. He holds a Delaware Class B CDL. His official driving record shows no accidents or convictions of moving violations in a CMV during the last 3 years.

33. James Alonzo Kneece

Mr. James Alonzo Kneece, 67, has had poor vision in his left eye due to injury since childhood. He has optic nerve damage in that eye and scarring of the retina in the centrally located area. His best corrected visual acuity is 20/20 in the right eye and 20/400 in the left eye. He was examined by an ophthalmologist in 1999 who stated, ''I think because of his lifelong adaptation to the poor vision in the left eye, he is qualified to operate a commercial vehicle.''

Mr. Kneece has driven straight trucks for 2 years, accumulating 120,000 miles and tractor-trailer combination vehicles for 40 years, accumulating 3.6 million miles. He holds a Georgia Class A CDL. His official driving record shows no accidents and no convictions of moving violations in a CMV for the last 3 years.

34. Ronnie L. LeMasters

Mr. Ronnie L. LeMasters, 48, has amblyopia in his left eye. His best corrected visual acuity is 20/20 in the right eye and 20/400 in the left eye. He was examined in 1999, and his optometrist stated, ''Mr. LeMasters congenital amblyopia is stable and should not affect his ability to drive a commercial vehicle.''

Mr. LeMasters has driven straight trucks for 26 years, accumulating more than 545,000 miles. He holds a West Virginia CDL. His official driving record shows no accidents or convictions for moving violations in a CMV for the last 3 years.

35. Samuel Joseph Long

Mr. Samuel Joseph Long, 33, has been blind in his right eye since 1971. His uncorrected vision in his left eye is 20/15. He was examined by an ophthalmologist in 1999 who stated, ''It is my opinion that Mr. Long's vision is sufficient to perform the driving tasks required to operate a commercial vehicle.''

Mr. Long has driven straight trucks for 6 years and a total of 360,000 miles. He holds a Florida Class D license. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

36. Steven G. Luther

Mr. Steven G. Luther, 47, has a diagnosis of ocular histoplasmosis in his right eye. His visual acuity is 20/20 in the left eye and 20/200 in the right eye. He was examined by an ophthalmologist in 1999 who stated, ''I think also that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.''

Mr. Luther has driven straight trucks for 25 years, accumulating 837,500 miles and tractor-trailer combination vehicles for 8 years, accumulating 8,000 miles. He holds an Iowa Class A CDL. His official driving record shows no accidents or convictions of moving violations in a CMV during the past 3 years.

37. Lewis V. McNeice

Mr. Lewis V. McNeice, 52, has been monocular since his right eye was removed approximately 34 years ago. His best corrected visual acuity in his left eye is 20/15. He was examined by his optometrist in 1999 who stated, ''I believe Mr. McNeice has sufficient vision to drive commercially.''

Mr. McNeice has driven straight trucks for 34 years and tractor-trailer combination vehicles for 25 years for a total of over 3.1 million miles. He holds a Texas CDL. His official driving record for the last 3 years shows no accidents or convictions of moving violations in a CMV.

38. Barry B. Morgan

Mr. Barry B. Morgan, 57, has amblyopia in his left eye. His best corrected visual acuity is 20/15 in his right eye and 20/300 in his left eye. He was examined in 1999 by an optometrist who stated, ''My impression of Mr. Morgan is that he is intelligent, alert, and thoughtful, and that he is capable, with his vision, of operating a commercial vehicle.''

Mr. Morgan has driven straight trucks and tractor-trailer combination vehicles for 6 years, accumulating 33,600 miles. He holds a Washington Class B CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

39. Richard O'Neal, Jr.

Mr. Richard O'Neal, 68, has been blind in his right eye due to injury since approximately 1969. His best corrected visual acuity in his left eye is 20/20. He was examined in 1999, and his ophthalmologist stated, ''it is my medical opinion that he has sufficient vision to perform the driving task required to operate a commercial vehicle.''

Mr. O'Neal has driven tractor-trailer combination vehicles for 20 years, accumulating over 800,000 miles. He holds an Indiana CDL. His official driving record shows no accidents or convictions of moving violations in a CMV during the past 3 years.

40. Dewey Owens, Jr.

Mr. Dewey Owens, Jr., 75, has worn a prosthesis in his right eye for at least 13 years since his current optometrist has been treating him. His best corrected visual acuity is 20/20 in his left eye. He was examined in 1999, and his optometrist stated, ''I feel that Mr. Owens certainly has sufficient vision to continue to operate a commercial vehicle as he had demonstrated for all the years that I have known him.''

Mr. Owens has driven tractor-trailer combination vehicles of over 50 years and has accumulated over 5.5 million miles. He holds an Alabama Class AM CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

41. Richard E. Perry

Mr. Richard E. Perry, 47, suffered trauma to the left eye as a child, leaving him with severely reduced vision in that eye. His best visual acuity is 20/20 in the right eye (uncorrected) and count fingers in the left. He was examined in 1999, and his ophthalmologist stated, ''I certify, in my opinion, that his [Mr. Perry's] vision is sufficient to perform the driving test required to operate a commercial vehicle.''

Mr. Perry has driven straight trucks for 3 years, accumulating 75,000 miles and tractor-trailer combination vehicles for 20 years, accumulating 2.5 million miles. He holds a California CDL. His official driving record shows no convictions of moving violations in a CMV in the last 3 years. He was involved in one accident in a CMV in the last 3 years. In the accident the other driver involved was charged with an unsafe lane change. Mr. Perry was not charged with any violation.

42. Douglas McArthur Potter

Mr. Douglas McArthur Potter, 58, suffered a retinal detachment in his left eye in August 1995. His best corrected visual acuity is 20/20 in the right eye and hand motion in the left eye. He was examined in 1999 by an ophthalmologist who stated, ''I see no reason why his vision would preclude him from operating a commercial vehicle.''

Mr. Potter has driven tractor-trailer combination vehicles for 30 years, accumulating 2.4 million miles and straight trucks for 41 years, accumulating 205,000 miles. He holds a Colorado Class A CDL. His official driving record shows one accident and no convictions of moving violations in a CMV for the last 3 years. There were no injuries in the accident and no citations were issued to Mr. Potter. The driver of the other vehicle involved received a citation for careless driving.

43. Gregory Martin Preves

Mr. Gregory Martin Preves, 47, has worn a prosthesis in his right eye since he was 20 years old. The visual acuity in his left eye is 20/20, corrected and uncorrected. He was examined in 1999 by an optometrist who stated, ''Mr. Preves definitely has sufficient vision to perform the tasks required to operate a commercial vehicle.''

Mr. Preves has driven straight trucks and tractor-trailer combination vehicles for 9 years, accumulating approximately 450,000 miles. He holds a Georgia Class A CDL. His official driving record shows no accidents and no convictions of moving violations in a CMV for the last 3 years.

44. James M. Rafferty

Mr. James M. Rafferty, 38, has been blind in his right eye since 1974 due to trauma. His best corrected visual acuity is 20/15 in his right eye. He was examined in 1999 by an ophthalmologist who stated, ''In my opinion, Mr. Rafferty has sufficient visual function to perform the driving tasks required to operate a commercial vehicle.''

Mr. Rafferty has driven straight trucks for 15 years, accumulating more than 1.2 million miles; tractor-trailer combination vehicles for 2 years, accumulating 10,000 miles; and buses for 1 year, accumulating 5,000 miles. He holds a New Hampshire Class A–MC CDL. His official driving record shows no accidents and no convictions of moving violations in a CMV for the last 3 years.

45. Paul C. Reagle, Sr.

Mr. Paul C. Reagle, 64, has age-related macular changes in his left eye, causing decreased vision. His best corrected visual acuity is 20/30 in the right eye and 20/100 in the left eye. He was examined in 1999 by his ophthalmologist who stated, ''I support Mr. Reagle's application for continued use of a commercial drivers license and any questions should be directed to my Mays Landing office.''

Mr. Reagle has driven straight trucks for 10 years and 200,000 miles; tractor-trailer combination vehicles for 44 years and 2.8 million miles; and buses for 30 years totaling 600,000 miles. He holds a

CDL from New Jersey. His official driving record shows no accidents or convictions of moving violations in a CMV for the past 3 years.

46. Glenn E. Robbins

Mr. Glen E. Robbins, 55, has been blind in his right eye since an automobile accident in 1963. His best corrected visual acuity is 20/20 in the left eye. He was examined in 1999 by an ophthalmologist who stated, ''I hereby certify that Mr. Robbins has sufficient vision to perform the duties of his work in a commercial motor vehicle in a normal manner without endangering himself or the general public.''

Mr. Robbins has driven straight trucks for 5 years, accumulating 350,000 miles and tractor-trailer combination vehicles for 29 years, accumulating 2.9 million miles. He holds a Wyoming Class ATX CDL. His official driving record shows no accidents and no convictions of moving violations in a CMV for the last 3 years.

47. Daniel Salinas

Mr. Daniel Salinas, 43, has amblyopia in his left eye. His best corrected visual acuity is 20/15 in the right eye and 20/400 in the left eye. He was examined in 1999 by an optometrist who stated, ''Daniel has sufficient vision to continue to perform the driving tasks required to operate a commercial vehicle.''

Mr. Salinas has driven straight trucks for 26 years, accumulating 2.6 million miles and tractor-trailer combination vehicles for 15 years, accumulating 1.7 million miles. He holds an Oregon Class A CDL. His official driving record shows no accidents and no convictions of a moving violation in a CMV for the last 3 years.

48. Salvador Sarmiento

Mr. Salvador Sarmiento, 49, has amblyopia in the right eye. His best corrected visual acuity is 20/20 in the left eye and 20/80 in the right eye. He was examined in 1999 by an optometrist who stated, ''His ability to operate a commercial [vehicle] is not compromised with his ocular condition.''

Mr. Sarmiento has driven tractor-trailer combination vehicles for 29 years, accumulating 870,000 miles and straight trucks for 5 years, accumulating 90,000 miles. He holds a Texas Class A CDL. His official driving record shows no accidents and no convictions of moving violations in a CMV in the last 3 years.

49. Wayne Richard Sears

Mr. Wayne Richard Sears, 39, has had a macular scar in his right eye for approximately 10 years. His visual acuity is 20/20 in the left eye and 20/300 in the right eye. He was examined in 1999 by an optometrist who stated, ''I believe that Mr. Sears can certainly see well enough to continue driving in a commercial vehicle.''

Mr. Sears has driven tractor-trailer combination vehicles for 16 years, accumulating 1.6 million miles and straight trucks for 2 years, accumulating 200,000 miles. He holds a Texas Class A CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

50. Garry R. Setters

Mr. Garry R. Setters, 45, has amblyopia in his right eye. His best corrected visual acuity is 20/20 in the left eye and 20/60 in the right eye. He was examined in 1999 by an ophthalmologist who stated, ''This patient has mild amblyopia of the right eye and, in my medical opinion, his vision is sufficient to perform his driving task with a commercial vehicle.''

Mr. Setters has driven a straight truck for 22 years, accumulating 770,000 miles. He holds a Kentucky Class DA License. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

51. Hoyt M. Shamblin

Mr. Hoyt M. Shamblin, 41, has had a corneal scar in his right eye due to injury since age 5. His best corrected visual acuity is 20/20 (-1) in his left eye and 20/200 in his right eye. He was examined in 1999 by an optometrist who stated, ''It is my opinion that Mr. Shamblin has the ability to safely operate a commercial vehicle for the tasks described necessary for his present employment.''

Mr. Shamblin has driven straight trucks for 5 years, accumulating 130,000 miles. He holds a Georgia Class BM license. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

52. Lee Russell Sidwell

Mr. Lee Russell Sidwell, 37, has amblyopia in his left eye. His best corrected visual acuity is 20/15 in the right eye and 20/60 in the left eye. He was examined in 1999 by an optometrist who stated, ''This letter certifies that in my medical opinion Lee Sidwell has sufficient vision to perform the driving tasks required to operate a commercial vehicle.''

Mr. Sidwell has driven both straight trucks and tractor-trailer combination vehicles for 11 years, accumulating 627,000 miles. He holds an Ohio Class A CDL. His official driving record shows no accidents and no convictions of moving violations in a CMV for the last 3 years.

53. Jesse M. Sikes

Mr. Jesse M. Sikes, 61, has been blind in his right eye since the age of 8 due to injury. His best corrected visual acuity is 20/20 in the left eye. He was examined by an optometrist in 1999 who stated, ''In my opinion Mr. Sikes can safely operate a commercial vehicle as well now as he has for the last several years.''

Mr. Sikes has driven straight trucks and tractor-trailer combination vehicles for 30 years, accumulating 1.5 million miles. He holds a Wyoming Class A CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

54. Harold A. Sleesman

Mr. Harold A. Sleesman, 68, has scarring in the central retina of the left eye which has been present since childhood. His best corrected visual acuity is 20/20 in the right eye and count fingers in the left eye. He was examined by an optometrist in 1999 who stated, ''Based on the above findings, it is my opinion that Mr. Sleesman should have no trouble continuing to perform the tasks required in operating a commercial vehicle.''

Mr. Sleesman has driven straight trucks for 26 years, accumulating 910,000 miles. He holds an Indiana Class A–NT CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

55. James E. Smith

Mr. James E. Smith, 43, has amblyopia in his left eye. His best corrected visual acuity is 20/20 in his right eye and 20/80 in his left eye. He was examined in 1999, and his optometrist stated, ''Mr. Smith is able to be a safe commercial driver and is no threat on the road.''

Mr. Smith has driven both straight trucks and tractor-trailer combination vehicles for 17 years, accumulating approximately 415,000 miles. He holds a Missouri CDL. His official driving record shows no accidents or convictions of moving violations in a CMV in the last 3 years.

56. Daniel A. Sohn

Mr. Daniel A. Sohn, 44, has congenital decreased visual acuity in his right eye. His best corrected visual acuity is 20/20 in the left eye and 20/70 in the right eye. He was examined in

1999 by an optometrist who stated, ''My medical opinion is that he certainly has sufficient vision to perform the driving tasks required to operate a commercial vehicle.''

Mr. Sohn has driven straight trucks and tractor-trailer combination vehicles for 14 years, accumulating 1.6 million miles. He holds a Wisconsin Class ABCDM CDL. His official driving record shows no accidents and no convictions of moving violations in a CMV for the last 3 years.

57. Denney Vern Traylor

Mr. Denney Vern Traylor, 42, has amblyopia in his left eye. His visual acuity is 20/20 in the right eye and 20/200 in the left eye. He was examined by an ophthalmologist in 1999 who stated, ''Based on my examination of his eyes, it is my opinion that he has sufficient vision to operate a commercial vehicle.''

Mr. Traylor has driven tractor-trailer combination vehicles for 14 years, accumulating over 1.3 million miles. He holds a California Class AM CDL. His official driving record shows no accidents and 1 conviction for a moving violation in a CMV during the last 3 years. The conviction was for failure to obey a traffic sign.

58. Noel Stuart Wangerin

Mr. Noel Stuart Wangerin, 63, has been blind in his left eye since 1941 due to injury. His best corrected visual acuity is 20/20 in his right eye. He was examined in 1999 by an optometrist who stated, ''Mr. Wangerin has 20/20 vision which is sufficient to perform the driving tasks required to operate a commercial vehicle.''

Mr. Wangerin has driven straight trucks for 7 years, accumulating 140,000 miles and tractor-trailer combination vehicles for 25 years, accumulating 2.0 million miles. He holds an Illinois Class A CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

59. Brian W. Whitmer

Mr. Brian W. Whitmer, 43, has amblyopia in his right eye. His best corrected visual acuity is 20/20 in his left eye and 20/200 in his right eye. He was examined in 1999 by his optometrist who stated, ''Since he has been a successful commercial driver for many years, it is my opinion that he has sufficient vision to continue performing commercial driving tasks.''

Mr. Whitmer has driven tractor-trailer combination vehicles for 4 years and 10 months, totaling approximately 300,000 miles. He holds an Ohio CDL. His official driving record shows no accidents or convictions of moving violations in a CMV during the past 3 years.

60. Jeffrey D. Wilson

Mr. Jeffrey D. Wilson, 23, has been blind in his right eye since birth as the result of optic nerve pits. His best corrected vision is 20/15 in his left eye. He was examined by an optometrist in 1999 who stated, ''It is my opinion that Mr. Jeffrey Wilson has sufficient vision to be able to safely operate a commercial vehicle and should be granted an exemption from the Federal vision standard.''

Mr. Wilson has driven tractor-trailer combination vehicles for 4 years, accumulating 400,000 miles. He holds a Colorado Class A CDL. His official driving record shows no accidents and no convictions of moving violations in a CMV for the last 3 years.

61. Joseph F. Wood

Mr. Joseph F. Wood, 29, has amblyopia in his left eye. His best corrected visual acuity is 20/20 in his right eye and 20/60 in his left eye. He was examined in 1999, and his optometrist stated, ''I certify that in my opinion, Joseph Wood's vision is sufficient to perform the driving tasks required to operate a commercial vehicle.''

Mr. Wood has driven straight trucks for 6 years, accumulating approximately 300,000 miles. He holds a Mississippi CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the past 3 years.

62. William E. Woodhouse

Mr. William E. Woodhouse, 41, sustained a corneal ulcer on his right eye in June 1992. His best corrected visual acuity is 20/400, pinholing to 20/200 in the right eye and 20/20 in the left eye uncorrected. He was examined in 1999 by an ophthalmologist who stated, ''My medical opinion is that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.''

Mr. Woodhouse has driven tractor-trailer combination vehicles for 11 years, accumulating over 1.3 million miles. He holds an Illinois Class A CDL. His official driving record shows no accidents and no convictions of moving violations in a CMV for the last 3 years.

63. Rick A. Young

Mr. Rick A. Young, 39, has been blind in his left eye since 1982 due to injury. The visual acuity in his right eye is 20/20. He was examined in 1999 by an ophthalmologist who stated, ''I feel he has sufficient vision to perform the driving tasks required to operate a commercial vehicle and has been doing this in the past with this level of vision.''

Mr. Young has driven straight trucks for 16 years, accumulating 400,000 miles and tractor-trailer combination vehicles for 10 years, accumulating 150,000 miles. He holds an Indiana Class A CDL. His official driving record shows no accidents and no convictions of moving violations in a CMV for the last 3 years.

Basis for Preliminary Determination To Grant Exemptions

Independent studies support the principle that past driving performance is a reliable indicator of an individual's future safety record. The studies are filed in FHWA Docket No. FHWA–97–2625 and discussed at 63 FR 1524, 1525 (January 9, 1998). We believe we can properly apply the principle to monocular drivers because data from the vision waiver program clearly demonstrate the driving performance of monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, March 26, 1996.) That monocular drivers in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, with qualifications similar to those required by the waiver program, can also adapt to their vision deficiency and operate safely.

The 63 applicants have qualifications similar to those possessed by drivers in the waiver program. Their experience and safe driving record operating CMVs demonstrate that they have adapted their driving skills to accommodate their vision deficiency. Since past driving records are reliable precursors of the future, there is no reason to expect these individuals to drive less safely after receiving their exemptions. Indeed, there is every reason to expect at least the same level of safety, if not a greater level, because the applicants can have their exemptions revoked if they compile an unsafe driving record.

For these reasons, the FMCSA believes exempting the individuals from 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption as long as vision in their better eye continues to meet the standard specified in 391.41(b)(10). As a condition of the exemption, therefore, the FMCSA proposes to impose requirements on the individuals similar to the grandfathering provisions in 49 CFR 391.64(b) applied to drivers who participated in the agency's former vision waiver program.

These requirements are as follows: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that vision in the better eye meets the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to his or her employer for retention in its driver qualification file or keep a copy in his or her driver qualification file if he or she becomes self-employed. The driver must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), the proposed exemption for each person will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is effective at the end of the 2-year period, the person may apply to the FMCSA for a renewal under procedures in effect at that time.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), the FMCSA is requesting public comment from all interested persons on the exemption petitions and the matters discussed in this notice. All comments received before the close of business on the closing date indicated above will be considered and will be available for examination in the docket room at the above address. Comments received after the closing date will be filed in the docket and will be considered to the extent practicable, but the FMCSA may issue exemptions from the vision requirement to the 63 applicants and publish in the **Federal Register** a notice of final determination at any time after the close of the comment period. In addition to late comments, the FMCSA will also continue to file in the docket relevant information which becomes available after the closing date. Interested persons should continue to examine the docket for new material.

Authority: 49 U.S.C. 322, 31136 and 31315; 49 CFR 1.73.

Issued on: May 15, 2000.

Julie Anna Cirillo,

Acting Deputy Administrator, Federal Motor Carrier Safety Administration.

[FR Doc. 00–12930 Filed 5–22–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with provisions of the Hours of Service Law (108 Stat. 888, Pub. L. 103–272, 49 U.S.C. 21102(b)). The Hours of Service Law currently makes it unlawful for a railroad to require specified employees to remain on duty in excess of 12 hours. However, the Hours of Service Law contains a provision permitting a railroad, which employs not more than 15 employees subject to the statute, to seek an exemption from the 12 hour limitation.

Apalachicola Northern Railroad Company (AN)

(Waiver Petition Docket No. FRA–1999–5184)

The AN seeks an exemption so that it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The AN requests a one hour extension to the maximum limit of twelve hours total on-duty time for covered service employees. The request is made due to changing operational needs. The AN currently operates on 96 miles of track in the State of Florida.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number 1999–5184) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, S.W., Washington, D.C. 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at *http://dms.dot.gov.*

Issued in Washington, D.C. on May 18, 2000.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 00–12916 Filed 5–22–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for continuation of a waiver of compliance with provisions of the Hours of Service Law (108 Stat. 888, Pub. L. 103–272, 49 U.S.C. 21102(b)). The Hours of Service Law currently makes it unlawful for a railroad to require specified employees to remain on duty in excess of 12 hours. However, the Hours of Service Law contains a provision permitting a railroad, which employs not more than 15 employees subject to the statute, to seek an exemption from the 12 hour limitation.

Carolina Rail Services, Incorporated (CRS)

[Waiver Petition Docket No. FRA–1998–4566]

CRS seeks continuation of a previously issued exemption so that it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. CRS states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. CRS provides intra-port

services at the Port of Morehead City, North Carolina.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number 1998–4566) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, S.W., Washington, DC 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at *http://dms.dot.gov.*

Issued in Washington, DC, on May 18, 2000.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 00–12915 Filed 5–22–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49, Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for continuation of a waiver of compliance with provisions of the Hours of Service Law (108 Stat. 888, Pub. L. 103–272, 49 U.S.C. 21102(b)). The Hours of Service Law currently makes it unlawful for a railroad to require specified employees to remain on duty in excess of 12 hours. However, the Hours of Service Law contains a provision permitting a railroad, which employs not more than 15 employees subject to the statute, to seek an exemption from the 12 hour limitation.

Central Montana Rail, Incorporated (CMR)

[Waiver Petition Docket No. FRA–2000–7200]

CMR seeks a continuation of a previously issued exemption so that it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. CMR states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. CMR provides service over 87 miles of trackage between Moccasin Junction and Geraldine, Montana.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number 2000–7200) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, S.W., Washington, D.C. 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at *http://dms.dot.gov.*

Issued in Washington, DC, on May 18, 2000.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 00–12919 Filed 5–22–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49, Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a continued waiver of compliance with provisions of the Hours of Service Law (108 Stat. 888, Pub. L. 103–272, 49 U.S.C. 21102(b)). The Hours of Service Law currently makes it unlawful for a railroad to require specified employees to remain on duty in excess of 12 hours. However, the Hours of Service Law contains a provision permitting a railroad, which employs not more than 15 employees subject to the statute, to seek an exemption from the 12 hour limitation.

Pioneer Valley Railroad (PVRR)

[Waiver Petition Docket No. FRA–2000–7094]

The PVRR seeks to continue its exemption so that it may permit train crew employees to remain on duty not more than 16 hours in any 24-hour period. The PVRR states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if continued, would help its operation if unusual operating conditions are encountered. The PVRR provides service on over 16.9 miles of trackage wholly within the state of Massachusetts with headquarters in Westfield, Massachusetts.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number 2000–7094) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, S.W., Washington, D.C. 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at *http://dms.dot.gov.*

Issued in Washington, DC, on May 18, 2000.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 00–12918 Filed 5–22–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49, Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with provisions of the Hours of Service Law (108 Stat. 888, Pub. L. 103–272, 49 U.S.C. 21102(b)). The Hours of Service Law currently makes it unlawful for a railroad to require specified employees to remain on duty in excess of 12 hours. However, the Hours of Service Law contains a provision permitting a railroad, which employs not more than 15 employees subject to the statute, to seek an exemption from the 12 hour limitation.

York Railway Company (YRC)

[Waiver Petition Docket No. FRA–2000–7064]

The YRC seeks an exemption so that it may permit train crew employees to remain on duty not more than 16 hours in any 24-hour period to provide coal train deliveries to a consignee located in Spring Grove, Pennsylvania. The YRC further states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if continued, would help its operation if other unusual operating conditions are encountered. The YRC provides service on over 40 miles of trackage located in York County, Pennsylvania, with its headquarters in York, Pennsylvania.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees that are subject to the statue and has demonstrated good cause for granting this exemption.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number 2000–7064) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, S.W., Washington, D.C. 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at *http://dms.dot.gov.*

Issued in Washington, DC on May 18, 2000.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 00–12917 Filed 5–22–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Safety Advisory on RoadRailer Trailers

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of safety advisory.

SUMMARY: FRA is issuing Safety Advisory 99–03A in order to modify and update previously issued Safety Advisory 99–03 which addressed the securement of floor beam cross-members on RoadRailer® trailers. *See* 64 FR 61377 (November 10, 1999). FRA is issuing this revised Safety Advisory to address the securement of lift rods on RoadRailer® trailers in order to prevent the highway tandem wheels on these trailers from falling to the rails on moving trains. This Safety Advisory also provides updated information regarding the actions being taken within the industry regarding the securement of floor beam cross-members and lift rods on this equipment.

FOR FURTHER INFORMATION CONTACT: Gary Fairbanks, Mechanical Engineer, Motive Power and Equipment Division, Office of Safety Assurance and Compliance, FRA, 400 Seventh Street, SW, RRS–14, Mail Stop 25, Washington, DC 20590 (Telephone 202–493–6322/ Fax 202–493–6230)

SUPPLEMENTARY INFORMATION: In November of 1999, FRA issued Safety Advisory 99–03 based on its discovery that several RoadRailer® trailers operated by Triple Crown Services (Triple Crown) had experienced failures of floor beam cross-members. *See* 64 FR 61377. The cross beams connect the highway tandem wheel set to the body of the trailer via slide rails. The failure of the cross beams allows the weight of the tandem wheel set to deflect the slide rails to the point where the highway tires contact the rail. Prior to the issuance of Safety Advisory 99–03, FRA notified Wabash National Incorporated (Wabash), the manufacturer of RoadRailer® equipment, and requested that Wabash randomly inspect trailers at the Fort Wayne, Indiana, Triple Crown facility. Representatives of Wabash, Triple Crown, the Federal Highway Administration (FHWA), and FRA conducted a series of inspections at this facility in October of 1999. The cross-member defects found during these inspections could be classified into four categories:

1. A weld crack at the slide rail to I-beam cross-member;
2. A crack in the cross-member I-beam flange (which usually starts at the end of a weld);
3. A crack which has progressed into the web of the I-beam from the flange; or
4. A cross-member broken into two pieces.

The practice of attaching the tandem wheel set slide rails to the trailer body by welding to floor cross-member I-beam flanges has been the accepted method of highway trailer fabrication for many years. This method is

currently being used by nearly all van trailer manufacturers, and is considered safe and reliable when properly applied. It should be noted that there are some RoadRailer® trailers which have been in service since January 1988 that have not exhibited signs of weld or cross-member cracking in the above noted areas. Currently, the entire fleet of Triple Crown RoadRailer® trailers is in the process of being inspected or repaired. All inbound and outbound trailers are being inspected. Defective trailers will be withheld from service, transloaded, or repaired prior to being assembled into a train, depending upon the condition of the trailer. At this time, the manufacturer is considering one broken floor beam cross-member or four successive cross-members with cracks to be sufficient cause to withhold the trailer from service or to repair the trailer prior to continuing it in service.

Subsequent to the issuance of Safety Advisory 99–03, FRA discovered that several RoadRailer® trailers operated by Triple Crown Services (Triple Crown) and the National Railroad Passenger Corporation (Amtrak) have recently experienced failure of the tandem axle lift rods. These spring loaded lift rods retract the highway wheel set when the trailers are operated in the rail mode. Direct inspection of the lift rods is not possible by personnel positioned on the ground and standing adjacent to the trailer because the lift rods are encased in a steel tube and are located above the highway tandem axles at the rear of the trailer near the centerline of the trailer body. A broken lift rod will result in the highway tandem wheel set lowering toward the rail. Furthermore, if one or more of the lift rods fail per trailer the highway wheel set could potentially strike a close clearance object or the highway wheel set could drop completely to the rail. Thus, a high potential for derailment exists if a highway wheel set were to drop onto the rails.

An informal inquiry into the potential causes for the recent failures of the tandem axle lift rods determined that recently manufactured lift rods were not properly heat treated when manufactured and thus, may not be of adequate strength to handle the high loads encountered during the operation of the equipment. Due to the safety implications related to the failure of the lift rods, the National Highway Traffic Safety Administration (NHTSA) in conjunction with Wabash has issued a voluntary recall of equipment outfitted with tandem axle lift rods manufactured within the last two years. *See* NHTSA Recall Number 00V–025 and 00V–344. Wabash will also provide NHTSA and FRA with quarterly progress reports on the status of the recall. Furthermore, Wabash has issued six ''Service Bulletins'' regarding the inspection and repair of the RoadRailer® trailers in response to the recent lift rod failures and the failures of the floor beam cross-members discussed in Safety Advisory 99–03. These bulletins include:

- *SB2000–001:* RoadRailer® cross-members at front of slide reinforcement to prevent cracking; *Priority—Mandatory* (part of NHTSA Recall Number 00V–025 and 00V–344). This bulletin covers the inspection and installation of a bolt-on reinforcement channel that will increase the strength of the cross-member and reduce the stress at the welds. A three-inch diameter blue decal will be applied to the front of each trailer just above the Vehicle Identification Number (VIN) tag to indicate the rework has been completed.
- *SB2000–002:* RoadRailer® slide suspension body rail rear attachment reinforcement; *Priority—Voluntary* (at customer expense). This bulletin covers the modification of the aft end of the suspension body rails on standard dry freight RoadRailer® trailers. This reinforcement modification to the rear stop pipe will reduce the potential of the weld cracking.
- *SB200–003:* RoadRailer® slide suspension hold-down replacement and repair of cracks between lock pin holes in slide body rails; *Priority—Mandatory* (Warranty). This bulletin covers the replacement of the ⅜″ thick trailer slide body rail suspension hold down brackets with ¼″ brackets that have more clearance for the bottom lip of the body rail. The ⅜″ bracket caused stresses in the body rails and resulted in cracking between pairs of holes in the body rail.
- *SB2000–004:* RoadRailer® Lift Rod Replacement due to improper material; *Priority—Mandatory* (Warranty). This bulletin covers the replacement of trailer suspension lift rods that did not have the steel properly heat treated, and, therefore, may not be of adequate strength for the application. These lift rods can see high loads during the transfer and rail modes that require the material used in the lift rods to be of high strength heat treated steel.
- *SB2000–005:* RoadRailer® cross-member inspection; *Priority—Recommended.* This bulletin covers the procedures for the inspection of cross-members and the repair of the cross-members over the body rails during regular trailer inspections.
- *SB2000–006:* RoadRailer® Ultra Cube slide suspension body rail rear attachment reinforcement; *Priority—Voluntary* (at customer expense). This bulletin covers the reinforcement procedures for the aft end of the suspension body rails on Ultra Cube trailers. Severe impact of the slider suspension into the rear stop pipe can force the body rail to bow upwards causing the bottom of the vertical leg of the body rail of the extension to crack.

Recommended Action

Until the root cause(s) of the floor beam cross-member failures and the lift rod failures can be determined, and the appropriate long-term repairs effectuated, FRA recommends that the following actions be taken with regard to all RoadRailer® trailers:

- Each trailer should be inspected upon receipt at a facility from a highway motor carrier prior to being transferred to the rail mode to determine whether it has any of the following conditions:

1. One broken floor beam cross-member.
2. Four successive cross-member with cracks.

If either of the conditions is found, the trailer should be held until a repair can be made to correct the deficiency, or if loaded, the lading should be transferred to another trailer that has been inspected and found not to have any of these conditions.

- Each such inbound trailer should be inspected upon its arrival in a train prior to its transfer to the highway mode. If either of the conditions noted above is found, the trailer should be held until a repair can be made to correct the deficiency, or if loaded, the lading should be transferred to another trailer that has been inspected and found not to have any of these conditions.
- All operators of RoadRailer® trailers should obtain a copy of the above listed ''Service Bulletins'' and should follow all of the manufacturer's recommended inspection, repair, and modification procedures contained in those bulletins. To obtain a copy of the bulletins, operators should contact Mr. John Gabriel, Customer Service, Wabash National Corporation, P.O. Box 6129 Lafayette, IN 47903 or telephone (765) 771–5404.

FRA may modify Safety Advisory 99–03A, issue additional safety advisories, or take other appropriate action to ensure the highest level of safety on the Nation's railroads.

Issued in Washington, DC, on May 18, 2000.

George Gavalla,

Associate Administrator for Safety.

[FR Doc. 00–13014 Filed 5–22–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

The Department of Transportation (DOT), Maritime Administration (MARAD) has submitted the following public information collection request to the Office of Management and Budget (OMB) for emergency review and clearance in accordance with the Paperwork Reduction Act of 1995 (PRA) (P.L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by June 12, 2000. A copy of this information collection request, with applicable supporting documentation, may be obtained by contacting Raymond R. Barberesi, Director, Office of Sealift Support, MAR–630, Room 7307, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590, telephone number: 202–366–2323 or fax 202–493–2180. Comments and questions about the request listed below should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Transportation, Office of Management and Budget, Room 10102, Washington, DC 20503.

Agency: Maritime Administration.

Date: Comments must be submitted on or before June 12, 2000.

Title: Evaluation of the Maritime Security Program (MSP) and the Voluntary Intermodal Sealift Agreement (VISA) Program.

OMB Number: 2133–New.

Frequency: One-Time.

Affected Public: Vessel Operators, Shippers, Maritime Labor Entities, DOD and other Federal agencies and affected parties in the maritime and transportation industries.

Number of Respondents: 20 Respondents.

Estimated Time Per Respondent: 1 Hour.

Total Burden Hours: 20 Hours.

Summary: MARAD is conducting a program evaluation of the MSP and VISA programs and seeks to collect empirical information from various maritime- and transportation-related entities and other Federal agencies relating to the impact of the MSP and the VISA programs on DOD sealift capability and the U.S. merchant fleet. The evaluation seeks to determine the contribution of the MSP/VISA to the achievement of DOT's and MARAD's national security goals. This evaluation is part of DOT's implementation of the Government Performance and Results Act (GRPA). The information received will be used by MARAD personnel as part of the evaluation to identify and evaluate the causal relationship between MSP/VISA and the DOT/MARAD national security goals.

Burden Statement: According to the PRA, persons are not required to respond to a collection of information unless it displays a valid OMB control number. Note that this information collection has not yet received an OMB control number. It is estimated that the time required to complete this information collection averages approximately 1 hour per response, including the time to review instructions, search existing data resources, gather the data needed, and complete the information collection.

Dated: May 16, 2000.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 00–12875 Filed 5–22–00; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Exemption Applications

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), RSPA is publishing the following list of exemption applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: J. Suzanne Hedgepeth, Director, Office of Hazardous Materials, Exemptions and Approvals, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001, (202) 366–4535.

Key to "Reasons for Delay"

1. Awaiting additional information from applicant
2. Extensive public comment under review
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis
4. Staff review delayed by other priority issues or volume of exemption applications

Meaning of Application Number Suffixes

N—New application

M—Modification request

PM—Party to application with modification request

Issued in Washington, DC, on May 17, 2000.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

NEW EXEMPTION APPLICATIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
11862–N	The BOC Group, Murray Hill, NJ	4	6/30/2000
11927–N	Alaska Marine Lines, Inc., Seattle, WA	4	6/30/2000
12125–N	Mayo Foundation, Rochester, MN	4	6/30/2000
12142–N	Aristech Chemical Corp., Pittsburgh, PA	4	6/30/2000
12148–N	Eastman Kodak Company, Rochester, NY	4	6/30/2000
12158–N	Hickson Corporation, Conley, GA	4	6/30/2000
12181–N	Aristech, Pittsburgh, PA	4	6/30/2000
12205–N	Independent Chemical Corp., Glendale, NY	4	6/30/2000
12248–N	Ciba Specialty Chemicals Corp., High Point, NC	4	6/30/2000
12277–N	The Indian Sugar & General Engineering Corp. ISGE, Haryana, IX	4	6/30/2000
12281–N	ABS Group, Inc., Houston, TX	4	6/30/2000

NEW EXEMPTION APPLICATIONS—Continued

Application No.	Applicant	Reason for delay	Estimated date of completion
12290–N	Savage Industries, Inc., Pottstown, PA	4	6/30/2000
12292–N	Westway Trading Corporation, New Orleans, LA	4	6/30/2000
12307–N	Kern County Dept. of Weights & Measures, Bakersfield, CA	4	6/30/2000
12325–N	Lifeline Technologies, Inc., Sharon Hill, PA	4	6/30/2000
12332–N	Automotive Occupant Restraints Council, Lexington, KY	4	6/30/2000
12339–N	BOC Gases, Murray Hill, NJ	4	6/30/2000
12341–N	Space Systems/Loral, Palo Alto, CA	4	7/31/2000
12343–N	City Machine & Welding, Inc. of Amarillo, Amarillo, TX	1	7/31/2000
12350–N	BAC Technologies, Ltd., West Liberty, OH	4	7/31/2000
12351–N	Nalco/Exxon Energy Chemicals, L.P., Freeport, TX	4	7/31/2000
12353–N	Monson Companies, South Portland, ME	4	7/31/2000
12355–N	Union Tank Car Company, East Chicago, IN	4	7/31/2000
12356–N	Memorial Healthcare System, Pembroke Pines, FL	4	7/31/2000
12368–N	Occidental Chemical Corp., Dallas, TX	4	7/31/2000
12370–N	Eurotainer US, Inc., Somerset, NJ	4	6/30/2000
12379–N	Western Farm Service, Inc., Walnut Grove, CA	4	7/31/2000
12381–N	Ideal Chemical & Supply Co., Memphis, TN	4	7/31/2000
12392–N	Consani Engineering, Elsies River, SA	1	7/31/2000
7277–M	Structural Composites Industries, Pomona, CA	4	6/30/2000
8308–M	Tradewind Enterprises, Inc., Hillsboro, OR	4	6/30/2000
8556–M	Gardner Cryogenics, LeHigh Valley, PA	4	6/30/2000
9266–M	ERMEWA, Inc., Houston, TX	4	6/30/2000
10656–M	Conf. of Radiation Control Program Directors, Inc., Frankfort, KY	4	6/30/2000
10672–M	Burlington Packaging, Inc., Brooklyn, NY	4	6/30/2000
10921–M	The Procter & Gamble Company, Cincinnati, OH	1	6/30/2000
10977–M	Federal Industries Corporation Plymouth, MN	4	6/30/2000
11406–M	Conf. of Radiation Control Program Directors, Inc., Frankfort, KY	4	7/31/2000
11537–M	JCI Jones Chemicals, Inc., Milford, VA	4	7/31/2000
11769–M	Great Western Chemical Company, Portland, OR	4	7/31/2000
11769–M	Great Western Chemical Company, Portland, OR	4	7/31/2000
11769–M	Hydrite Chemical Company, Brookfield, WI	4	7/31/2000
11798–M	Air Products and Chemicals, Inc., Allentown, PA	1, 4	7/31/2000
12074–M	Van Hool NV, B–2500 Lier Koningshooikt, BG	1	7/31/2000
12132–M	Carleton Technologies, Inc., Orchard Park, NY	4	7/31/2000
12178–M	STC Technologies, Inc., Bethlehem, PA	1	7/31/2000

[FR Doc. 00–12870 Filed 5–22–00; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applications for Modification of Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (*e.g.* to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before June 7, 2000.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW, Washington, DC or at http://dms.dot.gov.

This notice of receipt of applications for modification of exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on May 16, 2000.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

Application No.	Docket No.	Applicant	Modification of exemption
8299–M		Pacific Scientific, Duarte, CA (See Footnoote 1)	8299
10555–M		Pacific Scientific HTL/KIN–Tech Division, Durate, CA (See Footnote 2)	10555
11761–M		Vulcan Chemicals, Birmingham, AL (See Footnote 3)	11761
11826–M		Spectra Gases, Inc., Branchburg, NJ (See Footnote 4)	11826
12378–M	RSPA–1999–6568	Federal Express, Memphis, TN (See Footnote 5)	12378
12447–M	RSPA–2000–7236	Akzo Nobel Coatings, Inc., Norcross, GA (See Footnote 6)	12447
12448–M	RSPA–2000–7244	Onyx Environmental Services, L.L.C., Flanders, NJ (See Footnote 7)	12448

[1] To modify the exemption to increase the service life limit to 24 years of the non-DOT specification pressure vessels for the transportation of certain Division 2.2 compressed gases.
[2] To modify the exemption to allow for the transportation of an additional Division 2.2 material in an alternative non-DOT specification cylinder.
[3] To modify the exemption to eliminate the marking requirements of certain DOT specification and AAR specification tank cars containing a residue of Class 8 materials.
[4] To modify the exemption to authorize additional Division 2.2 materials transported in DOT–3AL aluminum cylinders.
[5] To modify the exemption to indicate applicability to companies under subcontract operating under exclusive use for Federal Express for the transportation in commerce of dry ice by cargo aircraft only.
[6] To reissue the exemption originally issued on an emergency basis authorizing the use of hazard warning labels that do not conform with the specifications in the HMR.
[7] To reissue the exemption originally issued on an emergency basis for the transportation of anhydrous ammonia in DOT specification cylinders.

[FR Doc. 00–12871 Filed 5–22–00; 8:45am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before June 22, 2000.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PF–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW, Washington, DC 20590 or at http://dms.dot.gov.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on May 12, 2000.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12452–N	RSPA–00–7237	CA Dept. of Health Services, Berkeley, CA.	49 CFR 173.196, 178.609	To authorize the transportation in commerce of biological specimens classed as infectious substance (Etiologic agent) in specially designed packagings inside mechanical freezers. (mode 1)
12454–N	RSPA–00–7322	Ethyl Corp., Richmond, VA.	49 CFR 180.509(1), 180.509(e).	To authorize an alternative testing method for DOT class 105 tank cars for use in transporting various classes of hazardous materials. (mode 2)
12455–N	RSPA–00–7320	United States Marine, Safety Association, Philadelphia, PA.	49 CFR 173.34(e)	To authorize an alternative testing period for 3A, 3AA and 3AL compressed gas cylinders installed in marine inflatable liferafts undergoing required annual service at a United States Coast Guard approved inflatable liferaft service facility. (modes 1, 2, 3, 4)

NEW EXEMPTIONS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12457–N	RSPA–00–7371	Arch Chemicals, Inc., Norwalk, CN.	49 CFR 172.101(i)(3) Col. 8C.	To authorize the transportation in commerce of dry calcium hypochlorite mixture, Division 5.1, in DOT specification flexible intermediate bulk containers. (mode 1)
12460–N	RSPA–00–7355	M&M Service Company, Carinville, IL.	49 CFR 173.315(k)	To authorize the interstate transportation in commerce of a non-DOT specification tank built to MC 330 or MC 331 specifications for use in transporting propane, Division 2.1. (mode 1)

[FR Doc. 00–12872 Filed 5–23–00; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center

Notice of Meeting

AGENCY: Federal Law Enforcement Training Center, Treasury.

ACTION: Notice of meeting.

SUMMARY: The Advisory Committee to the National Center for State and Local Law Enforcement Training at the Federal Law Enforcement Training Center will meet on June 7, 2000. The agenda for this meeting includes remarks by the Committee Co-Chairs, Karen Wehner, Deputy Assistant Secretary (LE), Department of the Treasury, and Mary Lou Leary, Acting Assistant Attorney General, Office of Justice Programs, Department of Justice; progress reports on initiatives and training programs; and presentations on collaborative programs presented by the National Center.

ADDRESSES: James J. Rowley Training Center, 9200 Powder Mill Road, Laurel, Maryland.

FOR FURTHER INFORMATION CONTACT: Hobart M. Henson, Director, National Center for State and Local Law Enforcement Training, Federal Law Enforcement Training Center, Glynco, GA 31524, 912–267–2322.

Dated: May 17, 2000.

Hobart M. Henson,

Director, National Center for State and Local Law Enforcement Training.

[FR Doc. 00–12886 Filed 5–22–00; 8:45 am]

BILLING CODE 4810–32–P

DEPARTMENT OF VETERANS AFFAIRS

Summary of Precedent Opinions of the General Counsel

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of legal interpretations issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. These interpretations are considered precedential by VA and will be followed by VA officials and employees in future claim matters. The summary is published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue.

FOR FURTHER INFORMATION CONTACT: Jane L. Lehman, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–6558.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel that must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

New Precedent Opinions

VAOPGCPREC 01–2000

Question Presented

a. Is the last sentence of 38 CFR 3.272(h) consistent with 38 U.S.C. 1503(a)(3) in providing that expenses of a veteran's last illness paid by a surviving spouse subsequent to the veteran's death, but prior to the date of entitlement to improved death pension, may not be excluded from countable income for the purpose of determining death pension entitlement?

b. If so: (1) What is the basis for the differing treatment accorded by section 3.272(h) to expenses paid prior to the date of death and those paid after the date of death but before the date of entitlement; and, (2) does Congress' intent in enacting Pub. L. No. 98–369 to limit retroactive payments of pension in the case of claimants who file claims more than 45 days after the date of a veteran's death provide an adequate basis for prohibiting consideration of expenses in determining prospective entitlement for the period following the date of claim?

Held

a. The last sentence of 38 CFR 3.272(h) is inconsistent with 38 U.S.C. 1503(a)(3) in providing that expenses of a veteran's last illness paid by the veteran's surviving spouse subsequent to the veteran's death, but prior to the date of the surviving spouse's entitlement to death pension, may not be deducted from countable income for the purpose of determining entitlement to improved death pension. VA may not rely upon the last sentence of 38 CFR 3.272(h) as a basis for denying a death pension claim or reducing the amount of benefits payable.

b. (1) There is no basis for the differing treatment currently accorded under 38 CFR 3.272(h) for expenses of a veteran's last illness paid prior to the

date of a veteran's death and those paid after the date of death but before the date of a surviving spouse's entitlement to death pension.

(2) Congress' intent in enacting Pub. L. No. 98–369 to limit retroactive payments of pension in the case of claimants who file claims more than 45 days after the date of a veteran's death does not provide an adequate basis for prohibiting consideration of expenses of a veteran's last illness in determining prospective entitlement for the period following the date of a claim for improved death pension.

Effective date: March 28, 2000.

VAOPGCPREC 02–2000

Question Presented

May the Department of Veterans Affairs (VA) through rulemaking authorize special monthly compensation under 38 U.S.C. § 1114(k) (k-rate SMC) for a service-connected mastectomy?

Held

Section 1114(k) of title 38, United States Code, authorizes a special rate of compensation for the disabilities specified in that provision. Neither section 1114(k) nor VA's general rulemaking authority, 38 U.S.C. § 501(a), delegates to VA authority to recognize by rulemaking additional injuries or conditions not specified in section 1114(k) for which the special rate of compensation will be paid. By authorizing that rate of compensation for ''anatomical loss or loss of use of one or more creative organs,'' Congress intended to compensate for loss of a procreative, or reproductive, organ, which does not include the breast. Therefore, VA may not by rulemaking authorize special monthly compensation under section 1114(k) for a service-connected mastectomy.

Effective date: April 3, 2000.

VAOPGCPREC 03–2000

Question Presented

a. When the Department of Veterans Affairs (VA) issues an amendment to a provision of its rating schedule while a claim for an increased rating is pending, what is the proper analysis for determining whether, and to what extent, the pending claim is governed by the prior rating-schedule provision or the revised rating-schedule provision?

VAOPGCPREC 04–2000

Question Presented

A. Do provisions of paragraph 7.21 in Veterans Benefits Administration (VBA) Adjudication Procedure Manual M21–1 (Manual M21–1), part VI, pertaining to claims involving asbestos-related diseases constitute regulations which are binding on the Department of Veterans Affairs (VA)?

B. Is medical-nexus evidence required to establish a well-grounded claim for service connection for an asbestos-related disease referenced in paragraph 7.21 of VBA Manual M21–1, Part VI, and allegedly due to in-service asbestos exposure?

Held

A.(1) Paragraph 7.21a., b., c., and d.(3) of Veterans Benefits Administration Adjudication Procedure Manual M21–1, Part VI, and the fourth and fifth sentences of paragraph 7.21d.(1) of that manual are not substantive in nature. However, relevant factors discussed in paragraphs 7.21a., b., and c. must be considered and addressed by the Board in assessing the evidence regarding an asbestos-related claim in order to fulfill the Board's obligation under 38 U.S.C. § 7104(d)(1) to provide an adequate statement of the reasons and bases for a decision.

(2) The first three sentences of paragraph 7.21d. (1) of Veterans Benefits. Administration Adjudication Procedure Manual M21–1, Part VI, establish a procedure which, in light of current case law, adjudicators are required to follow in claims involving asbestos-related diseases. However, to the extent that paragraph 7.21d.(1) of that manual establishes claim-development procedures, those procedures are only applicable in the case of a well-grounded claim.

(3) Paragraph 7.21d.(2) of Veterans Benefits Administration Adjudication Procedure Manual M21–1, Part VI, should be regarded as substantive. However, that paragraph should not be treated as binding to the extent it may adversely affect a claimant by requiring that a particular asbestos-related disease be rated by analogy to a specified condition, where a rating more favorable to the claimant would be obtained by reference to current rating criteria for the particular disease in VA's rating schedule. Similarly, where the current rating schedule contains no criteria specific to the asbestos-related disease, paragraph 7.21d(2) should not be treated as binding to the extent it would adversely affect a claimant by requiring that the asbestos-related disease be rated by analogy to a particular condition, where a rating more favorable to the claimant would be obtained by rating by analogy to another disease pursuant to 38 CFR 4.20.

B. Medical-nexus evidence is required to establish a well-grounded claim for service connection for an asbestos-related disease referenced in paragraph 7.21 of Veterans Benefits Administration Adjudication Procedure Manual M21–1, Part VI, and allegedly due to in-service asbestos exposure.

Effective date: April 13, 2000.

Withdrawn Precedent Opinion

VAOPGCPREC 13–94

''* * * G.C. Prec. 13–94 [VAOPGCPREC 13–94] held the following:

Service connection may not be established for a disability incurred following the date on which a veteran was discharged from active military duty, although the discharge was subsequently voided and full active-duty credit granted by a Board for Correction of Military Records to a date after the date on which injury occurred, because the veteran was not engaged in active service at that time.''

VAOPGCPREC 13–94 was overruled by *Spencer* v. *West,* 2000 WL 266117 (Vet. App., March 13, 2000). Accordingly, VAOPGCPREC 13–94 is hereby withdrawn.

Effective Date: March 13, 2000.

By direction of the Secretary.

Leigh A. Bradley,

General Counsel.

[FR Doc. 00–12867 5–22–00; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 65, No. 100

Tuesday, May 23, 2000

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 Parts 600 and 660

[Docket No. 991223347–9347; I.D. 042600B]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Adjustments

Correction

In rule document 00–11108 beginning on page 25881 in the issue of Thursday, May 4, 2000, make the following corrections:

1. On page 25882, in the first column, in the first paragraph, in the fourth line, ''1,000 (454 kg)'' should read ''1,000 lb (454 kg)''.

2. On the same page, in the third column, in the second paragraph, in the ninth line, ''2,100 (953 kg)'' should read ''2,100 lb (953 kg)''.

3. On page 25885, in the second column, in section IV, in paragraph C(4), in the first line, ''the area between 45°20′15″N.lat.'' should read ''the area between 45°03′50″N.lat. and 45°20′15″N.lat.''.

4. On the same page, in the third column, in the same section, in the same paragraph, in the third line, ''October 1–December 31, 2000:'' should read ''(b) October 1–December 31, 2000:''.

[FR Doc. C0–11108 Filed 5–22–00; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 444

[FRL-6503-6]

RIN 2040-AC23

Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Commercial Hazardous Waste Combustor Subcategory of the Waste Combustors Point Source Category

Correction

In rule document 00–2019 beginning on page 4360 in the issue of Thursday, January 27, 2000, make the following corrections:

1. On page 4379, in the second column, in the eighth paragraph, remove the duplicated text under the heading *''Commercial Hazardous Waste Combustor''.*

§444.12 [Corrected]

2. On page 4382, in the table, in the fourth column, the entry under ''ASTM'' in the third line, ''2972-93(A)'' should read ''D2972-93(A)''.

[FR Doc. C0–2019 Filed 5–22–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

Correction

In notice document 00–12321 appearing on page 31189 in the issue of Tuesday, May 16, 2000 make the following correction:

In the third column, in the fourth line from the bottom,''Levin'' should read ''Kevin''.

[FR Doc. C0–12321 Filed 5–22–00; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
May 23, 2000

Part II

Department of Defense

Department of the Army, Corps of Engineers

33 CFR Part 334

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

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Marine Corps Restricted Area, New River, NC, and Vicinity

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

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Corps of Engineers is proposing to amend the regulations which establish restricted areas in the waters of New River, North Carolina, and vicinity to include restricted areas for United States Marine Corps Waterborne Refueling Training Operation in the Morgan Bay Sector, Farnell Bay Sector, and Grey Point Sector. Refueling operations would occur approximately fourteen times a year. Small craft would be refueled with unleaded gasoline or diesel fuel from a tactical bulk refueling system loaded onto a floating platform or vessel. The purpose is for the Marine Corps to gain proficiency in refueling operations and associated activities in riverine environments. The restricted area currently serves as a firing range; but there are no provisions for refueling operations. The changes to the regulation are necessary to safeguard Marine Corps vessels, ribbon bridges, and United States Government facilities from sabotage and other subversive acts, accidents, or other incidents of similar nature. These changes are also necessary to protect the public from potentially hazardous conditions which may exist as a result of the Marine Corps use of the area.

DATES: Written comments must be submitted on or before June 22, 2000.

ADDRESSES: U.S. Army Corps of Engineers, ATTN: CECW–OR, 20 Massachusetts Avenue, NW, Washington, D. C. 20314–1000

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, D.C. at (202) 761–1787, or Mr. Ernie Jahnke, Corps of Engineers, Wilmington District, at 910–251–4467.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX, of the Army Appropriations Act of 1919 (40 Stat 892 U.S.C.3) the Corps proposes to amend the restricted area regulations in 33 CFR Part 334.400.

Procedural Requirements

a. Review Under Executive Order 12866

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

b. Review Under the Regulatory Flexibility Act

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

c. Review Under the National Environmental Policy Act

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

d. Unfunded Mandates Act

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

List of Subjects in 33 CFR Part 334

Marine Safety, Navigation (water), Transportation, Waterways.

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

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

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

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

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

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

* * * * *

(c) * * *

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

* * * * *

Dated: May 9, 2000.

Charles M. Hess,

Chief, Operations Division, Office of Deputy Commanding General for Civil Works.

[FR Doc. 00–12764 Filed 5–22–00; 8:45 am]

BILLING CODE 3710–92–U

Federal Register

Tuesday,
May 23, 2000

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 17

Federal Acquisition Regulation; Executive Agent; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 17

[FAR Case 99–004]

RIN 9000–AI42

Federal Acquisition Regulation; Executive Agent

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Withdrawal of proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) agreed to withdraw FAR case 99–004, Executive Agent, because it is no longer necessary. The proposed rule was published in the **Federal Register** at 64 FR 44100, August 12, 1999.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph De Stefano, Procurement Analyst, at (202) 501–1758. Please cite FAR case 99–004, withdrawal.

SUPPLEMENTARY INFORMATION:

A. Background

The rule which was published in the **Federal Register** at 64 FR 44100, August 12, 1999, proposed amending FAR part 17 to add another example of an interagency acquisition that is not subject to the Economy Act. This rule is being withdrawn because it is no longer necessary.

List of Subjects in 48 CFR Part 17

Government procurement.

Dated: May 17, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 00–12868 Filed 5–22–00; 8:45 am]

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Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

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Airbus; published 4-18-00

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Softwood lumber shipments from Canada; published 5-23-00

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AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Electronic and information technology accessibility standards; comments due by 5-30-00; published 3-31-00

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

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Atlantic Coast horseshoe crab; comments due by 6-2-00; published 5-3-00

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Ocean and coastal resource management:

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Patent and Trademark Office

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DEFENSE DEPARTMENT

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Procurement integrity rewrite; comments due by 5-30-00; published 3-29-00

EDUCATION DEPARTMENT

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LIST OF PUBLIC LAWS

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H.R. 434/P.L. 106–200

Trade and Development Act of 2000 (May 18, 2000; 114 Stat. 251)

S. 1744/P.L. 106–201

To amend the Endangered Species Act of 1973 to provide that certain species conservation reports shall continue to be required to be submitted. (May 18, 2000; 114 Stat. 307)

S. 2323/P.L. 106–202

Worker Economic Opportunity Act (May 18, 2000; 114 Stat. 308)

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