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WHEN: February 20, 2001, from 9:00 a.m. to Noon (E.S.T.)

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

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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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 00–122–1]

Change in Disease Status of the Republic of South Africa Because of Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations governing the importation of certain animals, meat, and other animal products by removing the Republic of South Africa from the list of regions considered to be free of rinderpest and foot-and-mouth disease. We are taking this action because the existence of foot-and-mouth disease has been confirmed in two provinces in the Republic of South Africa. The effect of this action is to prohibit or restrict the importation of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from the Republic of South Africa.

DATES: This interim rule was effective on November 6, 2000. We invite you to comment on this docket. We will consider all comments that we receive by April 10, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 00–122–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 00–122–1.

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

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

FOR FURTHER INFORMATION CONTACT: Dr. Glen Garris, Supervisory Staff Officer, Regionalization Evaluation Services Team, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

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

On November 2, 2000, we published in the **Federal Register** an interim rule (65 FR 65728–65729, Docket No. 00–104–1) to remove KwaZulu-Natal, a province in the Republic of South Africa, from the list of regions considered to be free of rinderpest and FMD because FMD had been confirmed there. Prior to the publication of that interim rule, the Republic of South Africa, except the FMD-controlled area that includes Kruger National Park, was among the regions listed in §§ 94.1 and 94.11 as regions considered to be free of rinderpest and FMD.

On November 29, 2000, another suspected outbreak of FMD was detected in the Republic of South Africa, this time in the province of Mpumalanga. Subsequently, on November 30, 2000, the Republic of South Africa's National Department of Agriculture notified the U.S. Department of Agriculture and the Office International des Epizooties (OIE) with clinical confirmation of the FMD diagnosis.

The FMD outbreak in the province of Mpumalanga is unrelated to the previous outbreak in the province of KwaZulu-Natal and, as noted above, is the second introduction of the virus into South Africa in 3 months. The Republic of South Africa's National Department of Agriculture is still investigating the virus' mode of introduction into the FMD-free area and is conducting extensive serological surveillance outside the quarantined area to ensure that the disease is confined to the outbreak farm. Until the results of the epidemiological investigation and the surveillance program are known, we believe that it is necessary to impose restrictions on the entire Republic of South Africa to protect the livestock of the United States from FMD.

Therefore, we are amending the regulations in § 94.1 by removing the Republic of South Africa from the list of regions considered to be free of rinderpest and FMD. We are also removing the Republic of South Africa from the list of regions in § 94.11 that are considered to be free of these diseases, but are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected regions. As a result of this action, the importation into the United States of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants and swine from any part of the Republic of South Africa is prohibited or restricted. We are making these amendments effective retroactively to November 6, 2000, because the disease may have been present in the province of Mpumalanga for some time before it was detected on November 29, 2000.

Although we are removing the Republic of South Africa from the list of regions considered to be free of rinderpest and FMD because of two

separate outbreaks of FMD within a short period, we recognize that the Republic of South Africa's National Department of Agriculture responded immediately to the detection of the disease by imposing restrictions on the movement of ruminants, swine, and ruminant and swine products from the affected areas and by initiating measures to eradicate the disease. At the time of publication of this interim rule, it appears that the outbreak is well controlled and currently confined to one farm only. Because of the Republic of South Africa's National Department of Agriculture's efforts to ensure that FMD does not spread beyond the previously affected province of KwaZulu-Natal and the newly affected area in the province of Mpumalanga, we intend to reassess the situation in accordance with the standards of the OIE. As part of that reassessment process, we will consider all comments received on this interim rule. This future reassessment will enable us to determine whether it is necessary to continue to prohibit or restrict the importation of ruminants or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine from the Republic of South Africa, or whether we can restore portions of the Republic of South Africa to the list of regions considered free of rinderpest and FMD.

Emergency Action

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

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

Executive Order 12866 and Regulatory Flexibility Act

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

We are amending the regulations governing the importation of certain animals, meat, and other animal products by removing the Republic of South Africa from the list of regions considered to be free of rinderpest and FMD. We are taking this action because the existence of FMD has been confirmed in two provinces in the Republic of South Africa. The effect of this action is to prohibit or restrict the importation of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from the Republic of South Africa.

FMD is among the most infectious and destructive of all animal diseases. While it rarely kills adult animals, the virus may kill young and weak animals. Production losses are substantial, and costs to eradicate the disease are high. A single outbreak of FMD in the United States has the potential to close our major livestock export markets overnight. During the eradication process, most exports of meat, animals, and animal byproducts would be curtailed. Additionally, if the early signs of an outbreak were not immediately recognized, eradication could take years. Therefore, efforts to reduce the risk of the entry of FMD into the United States continue to be a high priority.

Imports of infected animal products pose the greatest risk of entry for FMD into the United States. The virus can survive in chilled, frozen, salted, cured, and partially cooked meats.

Additionally, the virus can also be present in cheese, since the pasteurization process does not completely kill the virus. Strict quarantine regulations minimize the risk of any infected products entering the United States. With the exception of North and Central America (north of Panama), Australia, New Zealand, Great Britain, and the majority of the European Union (EU) countries, FMD is still present in many areas of the world. FMD was last reported in the United States in 1929, in Canada in 1952, and in Mexico in 1954.

The United States livestock industry plays a significant role in international trade. Maintaining favorable trade conditions depends, in part, on continued aggressive efforts to prevent the entry of FMD into the United States. In 1999, the total earnings from exports of live cattle, swine, beef and veal, pork, and dairy products were approximately $4.818 billion, while the value of imports was $5.671 billion. Livestock and related product exports generated about $11.7 billion in output sales and created about 100,000 jobs in the United States.

However, the value of live animals and animal products imported from the Republic of South Africa represents less than 0.06 percent of total U.S. imports of these products.[1] Therefore, U.S. price and supply are not expected to be affected by this rule. Further, any shortfall of supply could easily be met from domestic or other sources, without any significant effect on producer or consumer prices. Therefore, this rule can be expected to produce economic benefits by minimizing the risk of FMD entering the United States with little to no effect on supply or consumer prices.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant impact on a substantial number of small entities.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has retroactive effect to November 6, 2000; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 94

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

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

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

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

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

[1] In 1999, the total value of U.S. agricultural exports to the Republic of South Africa was about $196 million. The total value of U.S. agricultural imports from South Africa in 1999 was $106 million.

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) is amended by removing the words ''Republic of South Africa except the province of KwaZulu-Natal and except the foot-and-mouth disease controlled area (which extends from the Republic of South Africa's border with Mozambique approximately 30 to 90 kilometers into the Republic of South Africa to include Kruger National Park and surveillance and control zones around the park, and elsewhere extends, from east to west, approximately 10 to 20 kilometers into the Republic of South Africa along its borders with Mozambique, Swaziland, Zimbabwe, Botswana, and the southeast part of the border with Namibia),''.

§ 94.11 [Amended]

3. In § 94.11, paragraph (a) is amended by removing the words ''Republic of South Africa except the province of KwaZulu-Natal and except the foot-and-mouth disease controlled area (which extends from the Republic of South Africa's border with Mozambique approximately 30 to 90 kilometers into the Republic of South Africa to include Kruger National Park and surveillance and control zones around the park, and elsewhere extends, from east to west, approximately 10 to 20 kilometers into the Republic of South Africa along its borders with Mozambique, Swaziland, Zimbabwe, Botswana, and the southeast part of the border with Namibia),''.

Done in Washington, DC, this 18th day of January 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–2166 Filed 2–8–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 163 and 178

[T.D. 01–17]

RIN 1515–AC78

Duty-Free Treatment for Certain Beverages Made With Caribbean Rum

AGENCY: Customs Service, Department of the Treasury.

ACTION: Interim rule; solicitation of comments.

SUMMARY: This document amends the Customs Regulations, on an interim basis, in order to implement a change made by the Trade and Development Act of 2000 to the Caribbean Basin Economic Recovery Act, also known as the Caribbean Basin Initiative (CBI), that enables certain liqueurs and spirituous beverages to obtain duty-free entry under specified conditions when the beverages are processed in the territory of Canada from rum that is the growth, product or manufacture either of a CBI beneficiary country or of the U.S. Virgin Islands. The interim regulations set forth the certification and supporting documentation requirements that are necessary to establish compliance with the statutory law, thereby ensuring that the rum beverages are properly entitled to duty-free entry under the CBI.

DATES: Interim rule effective on February 9, 2001. This interim rule is effective for all products entered or withdrawn from warehouse for consumption on or after February 9, 2001. Comments must be received on or before April 10, 2001.

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

FOR FURTHER INFORMATION CONTACT: Leon Hayward, Office of Field Operations, (202–927–9704).

SUPPLEMENTARY INFORMATION:

Background

The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701–2707) (CBERA) establishes an economic recovery program for nations of the Caribbean and Central America. Under the CBERA, also referred to as the Caribbean Basin Initiative (CBI), the President is authorized to proclaim duty-free treatment for all eligible articles of a beneficiary country (19 U.S.C. 2701).

A beneficiary country under the CBI refers to any country listed in 19 U.S.C. 2702(b) with respect to which there is in effect a proclamation by the President designating the country as a beneficiary country for purposes of the CBI (19 U.S.C. 2702(a)(1)(A)). A rule of origin specifies under what conditions an article will be considered to be a product of a beneficiary country—in brief, the article must be wholly the growth, product or manufacture of a beneficiary country, or must be a new or different article of commerce that has been grown, produced, or manufactured in the beneficiary country (19 U.S.C. 2703(a)).

Sections 10.191 through 10.198b of the Customs Regulations (19 CFR 10.191–10.198b) currently implement the duty-free aspects of the CBI.

In pertinent part, in order to be entitled to duty-free treatment under the CBI, an article otherwise eligible for such treatment must be imported directly from a beneficiary country into the customs territory of the United States (19 U.S.C. 2703(a)(1)(A); 19 CFR 10.193).

Accordingly, in the case of rum produced in a beneficiary country and then imported into Canada for processing into a rum beverage, the beverage would not be eligible for duty-free treatment under the CBI because it is not imported directly from a beneficiary country into the United States. At the same time, the beverage would also be ineligible for duty-free treatment under the North American Free Trade Agreement Implementation Act (19 U.S.C. 3301 *et seq.*) (NAFTA) because the processing it undergoes in Canada would not be sufficient to qualify it as a NAFTA originating good (19 U.S.C. 3332; General Note 12, Harmonized Tariff Schedule of the United States (HTSUS); 19 CFR 181.131; and the appendix to 19 CFR part 181).

Beverages Made in Canada With Caribbean Rum; Amendment of CBERA by Trade and Development Act of 2000

To address the foregoing circumstances, the Caribbean Basin Economic Recovery Act has now been further amended by section 212 of the Trade and Development Act of 2000 (Pub. L. 106–200, 114 Stat. 251, enacted on May 18, 2000) (Act). Section 212 of this Act adds a new paragraph (a)(6) to section 213(a) of the CBERA (19 U.S.C. 2703(a)(6)), in order to provide for duty-free entry under certain conditions for liqueurs and spirituous beverages that are produced in the territory of Canada from rum that is the growth, product, or manufacture either of a beneficiary country under the CBI or of the U.S. Virgin Islands.

Specifically, under 19 U.S.C. 2703(a)(6), a liqueur or spirituous beverage that is imported directly into the Customs territory of the United States from the territory of Canada and that is classifiable under subheading 2208.90 or 2208.40, Harmonized Tariff Schedule of the United States (HTSUS), will be entitled to duty-free entry under the CBERA if such liqueur or beverage is produced in the territory of Canada from rum, provided that the rum: (1) Is the growth, product, or manufacture of a beneficiary country or of the U.S. Virgin Islands; (2) is imported directly into the territory of Canada from a beneficiary country or from the U.S. Virgin Islands; and (3) accounts for at least 90 percent by volume of the

alcoholic content of the liqueur or spirituous beverage.

In order to implement the provision allowing for duty-free admission for liqueurs and spirituous beverages produced in the territory of Canada from Caribbean rum, Customs is issuing an interim regulation (§ 10.199) which prescribes the certification and supporting documentary requirements and recordkeeping responsibilities that must be observed in order to afford duty-free admission for those beverages that properly qualify for such treatment, and to otherwise ensure compliance with the requirements of the statutory law.

In this latter regard, the importer must be prepared to submit to the port director, if requested, documentary evidence that the liqueurs or rum beverages were imported into the U.S. directly from the territory of Canada. This evidence may include documents such as a bill of lading, invoice, air waybill, freight waybill, or cargo manifest. Likewise, the port director may require that the importer submit documentary evidence that the rum used in producing the liqueurs or spirituous beverages was imported directly into the territory of Canada from a beneficiary country or from the U.S. Virgin Islands. This evidence may include documents such as a Canadian customs entry, Canadian customs invoice, Canadian customs manifest, cargo manifest, bill of lading, landing certificate, airway bill, or freight waybill. In either case, any evidence of direct shipment, as described, may be subject to such verification as deemed necessary by the port director.

In addition, the importer must be ready to present directly to the port director, if requested, a declaration prepared by the producer or manufacturer of the rum in the beneficiary country (or in the U.S. Virgin Islands, if applicable) that attests to the specific origin of the rum. Any records, including production records, supporting the declaration must likewise be available for submission to the port director, and the declaration and supporting records may be subject to any verification believed necessary by the port director.

Moreover, the importer must be prepared to submit directly to the port director, if requested, a declaration prepared by the Canadian processor who produced the liqueur(s) or spirituous beverage(s) for which duty-free entry is claimed under section 213(a)(6) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)(6)). The declaration must affirm, among other things, that the processor received the rum from the exporter or owner in the CBI beneficiary country or the U.S. Virgin Islands, as applicable; and that the processor used the rum in producing the liqueurs or other spirituous beverages. Production records, for each lot of liqueur/beverage produced, must establish the quantity of rum qualifying under 19 U.S.C. 2703(a)(6) that is used in producing the liqueur/beverage (non-qualifying rum may not be substituted for use in producing the liqueurs or beverages); the alcoholic content by volume of the finished liqueur/beverage; and the specific alcoholic content by volume of the processed liqueur/beverage that is attributable to the qualifying rum.

The importer must be prepared to submit to the port director, if requested, the declaration and/or the underlying documentation, including any supporting documents and records, necessary for the preparation of the declaration, for a period of 5 years from the date of entry of the related liqueurs or spirituous beverages, as provided in § 163.4(a), Customs Regulations (19 CFR 163.4(a)). If requested during this time, the importer must submit to the port director the declaration and/or any underlying documentation within 60 calendar days of the date of the request or any additional period as the port director may allow for good cause shown. The declaration and related documentation may be subject to such verification as the port director deems necessary.

Also, the foregoing time periods apply to the retention and submission of documentary evidence concerning the origin of the rum, its direct shipment into the territory of Canada and the direct shipment of the corresponding finished liqueurs and spirituous beverages from Canada into the United States.

Furthermore, the importer must establish and implement a system of internal controls which demonstrate that reasonable care was exercised in the claim for duty-free treatment under the CBI. These controls should include tests to assure the accuracy and availability of records that evidence: the origin of the rum; the direct shipment of the rum from a beneficiary country or from the U.S. Virgin Islands to Canada; the alcohol content of the finished liqueur/beverage imported from Canada; and the direct shipment of the finished liqueur/beverage from Canada to the United States.

Comments

Before adopting this interim regulation as a final rule, consideration will be given to any written comments that are timely submitted to Customs. Customs specifically requests 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 9:00 a.m. and 4:30 p.m. at the Regulations Branch, 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(b)(B), Customs has determined that good cause exists for dispensing with prior public notice and comment procedures on these interim regulations. The interim regulations afford a preferential tariff benefit to the importing public; they reflect, and provide a necessary and reasonable means for enforcing, statutory requirements that are already in effect; and they closely parallel existing regulatory provisions that implement similar trade preference programs. Also, for these same reasons, there is no need for a delayed effective date under 5 U.S.C. 553(d). 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. Nor does this document meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information involved in this interim rule has 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 1515–0194 (Documentation requirements for articles entered under various special tariff treatment provisions). This collection includes a claim for duty-free entry of eligible articles under the Caribbean Basin Initiative. This rule does not present any substantive changes 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.

Part 178, Customs Regulations (19 CFR part 178), containing the list of approved information collections, is revised to make reference to new § 10.199.

List of Subjects

19 CFR PART 10

Customs duties and inspection, Exports, Foreign relations, Imports, International traffic, Preference programs, Reporting and recordkeeping requirements, Shipments, Trade agreements (Caribbean Basin Initiative, Generalized System of Preferences, U.S.-Canada Free Trade Agreement, etc.).

19 CFR PART 163

Administrative practice and procedure, Customs duties and inspection, Imports, Reporting and recordkeeping requirements.

19 CFR PART 178

Administrative practice and procedure, Collections of information, Imports, Paperwork requirements, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, parts 10, 163 and 178, Customs Regulations (19 CFR parts 10, 163 and 178), are amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority for part 10 is revised to read as follows, and the specific sectional authority for part 10 is amended by removing the sectional authority citation, ''sections 10.191 through 10.198b also issued under 19 U.S.C. 2701 *et seq.*'', and by adding a new sectional authority citation in its place to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 22, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * *

Sections 10.191 through 10.199 also issued under 19 U.S.C. 2701 *et seq.*;

* * * * *

2. In § 10.191:

a. Paragraph (b)(1) is amended by removing the reference ''§ 10.198b'' and by adding, in its place, the reference ''§ 10.199'';

b. Paragraph (b)(3) is amended by removing the reference ''§ 10.198a'' and by adding, in its place, the reference ''§ 10.199''; and

c. Paragraph (b)(4) is amended by removing the reference ''§ 10.198b'' and by adding, in its place, the reference ''§ 10.199''.

3. Part 10 is amended by adding a new § 10.199 under the heading entitled ''CARIBBEAN BASIN INITIATIVE'' to read as follows:

§ 10. 199 Duty-free entry for certain beverages produced in Canada from Caribbean rum.

(a) *General.* A liqueur or other spirituous beverage that is imported directly from the territory of Canada and that is classifiable under subheading 2208.40 or 2208.90, Harmonized Tariff Schedule of the United States (HTSUS), will be entitled, upon entry or withdrawal from warehouse for consumption, to duty-free treatment under section 213(a)(6) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)(6)), also known as the Caribbean Basin Initiative (CBI), if the liqueur or spirituous beverage has been produced in the territory of Canada from rum, provided that the rum:

(1) Is the growth, product, or manufacture either of a beneficiary country or of the U.S. Virgin Islands;

(2) Was imported directly into the territory of Canada from a beneficiary country or from the U.S. Virgin Islands; and

(3) Accounts for at least 90 percent of the alcoholic content by volume of the liqueur or spirituous beverage.

(b) *Claim for exemption from duty under CBI.* A claim for an exemption from duty for a liqueur or spirituous beverage under section 213(a)(6) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)(6)) may be made by entering such liqueur or beverage under subheading 9817.22.05, HTSUS, on the entry summary document or its electronic equivalent. In order to claim the exemption, the importer must have the records described in paragraphs (d), (e), (f) and (g) of this section so that, upon Customs request, the importer can establish that:

(1) The rum used to produce the liqueur/beverage is the growth, product or manufacture either of a beneficiary country or of the U.S. Virgin Islands;

(2) The rum was shipped directly from a beneficiary country or from the U.S. Virgin Islands to Canada;

(3) The liqueur/beverage was produced in Canada;

(4) The rum accounts for at least 90% of the alcohol content of the liqueur/beverage; and

(5) The liqueur/beverage was shipped directly from Canada to the United States.

(c) *Imported directly.* For liqueur or other spirituous beverage imported from Canada to qualify for duty-free entry under the CBI, the liqueur or spirituous beverage must be imported directly into the customs territory of the United States from Canada; and the rum used in its production must have been imported directly into the territory of Canada either from a beneficiary country or from the U.S. Virgin Islands.

(1) ''Imported directly'' into the customs territory of the United States from Canada means:

(i) Direct shipment from the territory of Canada to the U.S. without passing through the territory of any other country; or

(ii) If the shipment is from the territory of Canada to the U.S. through the territory of any other country, the liqueurs and spirituous beverages do not enter into the commerce of any other country while en route to the U.S.; or

(iii) If the shipment is from the territory of Canada to the U.S. through the territory of another country, and the invoices and other documents do not show the U.S. as the final destination, the liqueurs and spirituous beverages in the shipment are imported directly only if they:

(A) Remained under the control of the customs authority of the intermediate country;

(B) Did not enter into the commerce of the intermediate country except for the purpose of sale other than at retail, and the port director is satisfied that the importation results from the original commercial transaction between the importer and the producer or the latter's sales agent; and

(C) Were not subjected to operations other than loading and unloading, and other activities necessary to preserve the products in good condition.

(2) ''Imported directly'' from a beneficiary country or from the U.S. Virgin Islands into the territory of Canada means:

(i) Direct shipment from a beneficiary country or from the U.S. Virgin Islands into the territory of Canada without passing through the territory of any non-beneficiary country; or

(ii) If the shipment is from a beneficiary country or from the U.S. Virgin Islands into the territory of Canada through the territory of any non-beneficiary country, the rum does not enter into the commerce of any non-beneficiary country while en route to Canada; or

(iii) If the shipment is from a beneficiary country or from the U.S. Virgin Islands into the territory of Canada through the territory of any non-beneficiary country, the rum in the shipment is imported directly into the territory of Canada only if it:

(A) Remained under the control of the customs authority of the intermediate country;

(B) Did not enter into the commerce of the intermediate country except for the purpose of sale other than at retail; and

(C) Was not subjected to operations in the intermediate country other than loading and unloading, and other activities necessary to preserve the product in good condition.

(d) *Evidence of direct shipment.*

(1) *Liqueurs or spirituous beverages imported from Canada.* The importer must be prepared to provide to the port director, if requested, documentary evidence that the liqueurs or spirituous beverages were imported directly from the territory of Canada, as described in paragraph (c)(1) of this section. This evidence may include documents such as a bill of lading, invoice, air waybill, freight waybill, or cargo manifest. Any evidence of the direct shipment of these liqueurs or spirituous beverages from Canada into the U.S. may be subject to such verification as deemed necessary by the port director.

(2) *Rum imported into Canada from beneficiary country or U.S. Virgin Islands.* The importer must be prepared to provide to the port director, if requested, evidence that the rum used in producing the liqueurs or spirituous beverages was imported directly into the territory of Canada from a beneficiary country or from the U.S. Virgin Islands, as described in paragraph (c)(2) of this section. This evidence may include documents such as a Canadian customs entry, Canadian customs invoice, Canadian customs manifest, cargo manifest, bill of lading, landing certificate, airway bill, or freight waybill. Any evidence of the direct shipment of the rum from a beneficiary country or from the U.S. Virgin Islands into the territory of Canada for use there in producing the liqueurs or other spirituous beverages may be subject to such verification as deemed necessary by the port director.

(e) *Origin of rum used in production of liqueur or spirituous beverage.*

(1) *Origin criteria.* In order for a liqueur or spirituous beverage covered by this section to be entitled to duty-free entry under the CBI, the rum used in producing the liqueur or spirituous beverage in the territory of Canada must be wholly the growth, product, or manufacture either of a beneficiary country under the CBI or of the U.S. Virgin Islands, or must constitute a new or different article of commerce that was produced or manufactured in a beneficiary country or in the U.S. Virgin Islands. Such rum will not be considered to have been grown, produced, or manufactured in a beneficiary country or in the U.S. Virgin Islands by virtue of having merely undergone blending, combining or packaging operations, or mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the product.

(2) *Evidence of origin of rum.*—(i) *Declaration.* The importer must be prepared to submit directly to the port director, if requested, a declaration prepared and signed by the person who produced or manufactured the rum, affirming that the rum is the growth, product or manufacture of a beneficiary country or of the U.S. Virgin Islands. While no particular form is prescribed for the declaration, it must include all pertinent information concerning the processing operations by which the rum was produced or manufactured, the address of the producer or manufacturer, the title of the party signing the declaration, and the date it is signed.

(ii) *Records supporting declaration.* The supporting records, including those production records, that are necessary for the preparation of the declaration must also be available for submission to the port director if requested. The declaration and any supporting evidence as to the origin of the rum may be subject to such verification as deemed necessary by the port director.

(f) *Canadian processor declaration; supporting documentation.*—(1) *Canadian processor declaration.* The importer must be prepared to submit directly to the port director, if requested, a declaration prepared by the person who produced the liqueur(s) and/or the spirituous beverage(s) in Canada, setting forth all pertinent information concerning the production of the liqueurs/beverages. The declaration will be in substantially the following form:

I, _____ declare that the liqueurs and/or spirituous beverages here specified are the products that were produced by me (us), as described below, with the use of rum that was received by me (us); that the rum used in producing the liqueurs/beverages was received by me (us) on _____ (date), from _____ (name and address of owner or exporter in the beneficiary country or in the U.S. Virgin Islands, as applicable); and that such rum accounts for at least 90 percent of the alcoholic content by volume, as shown below, of each liqueur or spirituous beverage so produced.

Marks and numbers	Description of products and of processing	Alcoholic content of products; alcoholic content (%) attributable to rum [1]
.....	.....	
.....	.....	
.....	.....	
.....	.....	
.....	.....	

[1] The production records must establish, for each lot of liqueur/beverage produced, the quantity of rum the growth, product or manufacture of a CBI beneficiary country or of the U.S. Virgin Islands under 19 U.S.C. 2703(a)(6) that is used in producing the finished liqueur/beverage; the alcoholic content by volume of the finished liqueur/beverage; and the alcoholic content by volume of the finished liqueur/beverage, expressed as a percentage, that is attributable to the qualifying rum. If rum from two or more qualifying sources (*e.g.*, rum the growth, product or manufacture of a CBI beneficiary country or of the U.S. Virgin Islands and other rum the growth, product or manufacture of another CBI country) are used in processing the liqueur/beverage, the alcoholic content requirement may be met by aggregating the alcoholic content of the finished liqueur/beverage that is attributable to rum from each of the qualifying sources used in processing the finished liqueur/beverage, as reflected in the production records.

Date _____

Address _____

Signature _____

Title _____

(2) *Availability of supporting documents.* The information, including any supporting documents and records, necessary for the preparation of the declaration, as described in paragraph (f)(1) of this section, must be available for submission to the port director, if requested. The declaration and any supporting evidence may be subject to such verification as deemed necessary by the port director. The specific documentary evidence necessary to support the declaration consists of those documents and records which satisfactorily establish:

(i) The receipt of the rum by the Canadian processor, including the date of receipt and the name and address of the party from whom the rum was received (the owner or exporter in the beneficiary country or the U.S. Virgin Islands); and

(ii) For each lot of liqueur/beverage produced and included in the declaration, the specific identification of the production lot(s) involved; the quantity of qualifying rum that is used in producing the finished liqueur/beverage, including a description of the processing and of the finished products; the alcoholic content by volume of the finished liqueur/beverage; and the alcoholic content by volume of the finished liqueur/beverage, expressed as

a percentage, that is attributable to the qualifying rum.

(g) *Importer system for review of necessary recordkeeping.* The importer will establish and implement a system of internal controls which demonstrate that reasonable care was exercised in its claim for duty-free treatment under the CBI. These controls should include tests to assure the accuracy and availability of records that establish:

(1) The origin of the rum;

(2) The direct shipment of the rum from a beneficiary country or from the U.S. Virgin Islands to Canada;

(3) The alcohol content of the finished liqueur/beverage imported from Canada; and

(4) The direct shipment of the finished liqueur/beverage from Canada to the United States.

(h) *Submission of documents to Customs.* The importer must be prepared to submit directly to the port director, if requested, those documents and/or supporting records as described in paragraphs (d), (e) and (f) of this section, for a period of 5 years from the date of entry of the related liqueurs and spirituous beverages under section 213(a)(6) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)(6)), as provided in § 163.4(a) of this chapter. If requested, the importer must submit such documents and/or supporting records to the port director within 60 calendar days of the date of the request or such additional period as the port director may allow for good cause shown.

PART 163—RECORDKEEPING

1. The authority citation for part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

2. The Appendix to part 163 is amended by adding the following new listing under section IV in appropriate numerical order to read as follows:

Appendix to Part 163—Interim (a)(1)(A) List

* * * * *

IV. * * *

§ 10.199 Documents, etc. required for duty-free entry of liqueurs and/or spirituous beverages produced in Canada from CBI rum, declaration of Canadian processor (plus supporting information.

* * * * *

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by adding the following in appropriate numerical sequence according to the section number under the columns indicated:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	Description	OMB control No.
*	*	*
§ 10.199	Claim for duty-free entry of rum beverages from Canada under the Caribbean Basin Initiative.	1515–0194
*	*	*

Raymond W. Kelly,

Commissioner of Customs.

Approved: February 5, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–3360 Filed 2–8–01; 8:45 am]

BILLING CODE 4820–02–U

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 191

[T.D. 01–18]

RIN 1515–AC67

Merchandise Processing Fee Eligible To Be Claimed as Unused Merchandise Drawback

AGENCY: Customs Service, Department of the Treasury.

ACTION: Interim rule; solicitation of comments.

SUMMARY: This document amends the Customs Regulations on an interim basis to indicate that merchandise processing fees are eligible to be claimed as unused merchandise drawback. The change is made to reflect a recent court decision in which merchandise processing fees were found to be assessed under Federal law and imposed by reason of importation and therefore eligible to be claimed as unused merchandise drawback pursuant to 19 U.S.C. 1313(j). The amendment will require a drawback claimant to apportion the merchandise processing fee to that merchandise that provides the basis for drawback.

DATES: This interim rule is effective February 9, 2001. Comments must be received on or before April 10, 2001.

ADDRESSES: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: William G. Rosoff, Chief, Duty and Refund Determinations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20029, Tel. (202) 927–2265.

SUPPLEMENTARY INFORMATION:

Background

Merchandise Processing Fees—19 U.S.C. 58c(a)(9)(A)

Merchandise processing fees are fees the Secretary of the Treasury charges and collects for the processing of merchandise that is formally entered or released into the United States. *See* 19 U.S.C. 58c(a)(9)(A). A merchandise processing fee is assessed in an amount equal to 0.21 percent of the value of the imported merchandise, as determined under 19 U.S.C. 1401a. Merchandise processing fees are subject to two monetary limits:

(1) A cap of $485 is imposed by 19 U.S.C. 58c(a)(9)(B)(i) for any release or entry, including weekly Free Trade Zone entries (*see* section 410 of the Trade and Development Act of 2000, Pub. L. 106–200, 114 Stat. 251, enacted on May 18, 2000), for which the value of merchandise subject to the fee exceeds $230,952.38 ($485 ÷ .0021 = $230,952.38); and

(2) For certain monthly entries, as prescribed by Pub. L. 101–382, section 111(f), as amended, and implemented

by § 24.23(d) of the Customs Regulations (19 CFR 24.23(d)), the merchandise processing fee is limited to the lesser of the following:

(i) A cap of $400 where the value of the merchandise subject to the fee exceeds $190,476.19 ($400 ÷ .0021 = $190,476.19); or

(ii) The amount determined by applying the *ad valorem* rate under paragraph (b)(1)(i)(A) of § 24.23 to the total value of such daily importations.

Drawback—19 U.S.C. 1313

Section 313 of the Tariff Act of 1930, as amended (19 U.S.C. 1313), concerns drawback and refunds. Drawback is a refund of certain duties, taxes and fees paid by the importer of record and granted to a drawback claimant under specific conditions. There are several types of drawback. Section 1313(j) concerns drawback for ''unused merchandise,'' and provides, pursuant to specific conditions set forth therein, that a refund of 99 percent of each duty, tax, or fee ''imposed under Federal law because of [an article's] importation'' will be refunded as drawback.

Merchandise Processing Fees Eligible To Be Claimed as Unused Merchandise Drawback

The issue of whether a merchandise processing fee is ''imposed under Federal law because of [an article's] importation,'' and therefore eligible to be claimed as unused merchandise drawback pursuant to the terms of section 1313(j), was recently examined by the Court of Appeals for the Federal Circuit in *Texport Oil* v. *United States,* 185 Fd. 3d 1291 (Fed. Cir. 1999). In that case, the court held that as merchandise processing fees are ''assessed under Federal law'' (pursuant to 19 U.S.C. 58c(a)(9)) and ''explicitly linked to import activities,'' they are imposed by reason of importation and therefore subject to unused merchandise drawback by application of the statute.

Amendment to the Customs Regulations

To implement the court's interpretation of 19 U.S.C. 1313(j), it is necessary to amend the Customs Regulations to provide that merchandise processing fees are now subject to unused merchandise drawback, and to add apportionment language. Apportionment language is necessary because in order for a drawback claimant to correctly calculate the amount of drawback due, the claimant must apportion the merchandise processing fee to that merchandise that provides the basis for unused merchandise drawback.

In this document, Customs is amending the regulations to reflect the holding in *Texport* and to provide examples of apportionment calculations. Amendments are made to §§ 191.2(u), 191.3, and 191.51 of the Customs Regulations. Section 191.3 is amended to reflect that a merchandise processing fee is now subject to unused merchandise drawback. Section 191.51 is amended to reflect how a claimant is to calculate the portion of a merchandise processing fee that is eligible to be claimed as unused merchandise drawback. A conforming change is made to § 191.2(u). A more detailed explanation of the amendments is set forth below.

19 CFR 191.3

Section 191.3 of the Customs Regulations (19 CFR 191.3) identifies those duties and fees that are subject to, or ineligible for, drawback. Paragraph (a) of this section enumerates those duties that are subject to drawback. Paragraph (b) sets forth those duties and fees that are deemed ineligible for drawback. In paragraph (b)(2), merchandise processing fees are specifically identified as ineligible for drawback.

In view of the recent judicial interpretation of section 1313(j)(2) in which merchandise processing fees were deemed subject to unused merchandise drawback, §§ 191.3(a) and (b)(2) of the Customs Regulations are amended to reflect that determination. A new paragraph (a)(4) is added to provide that merchandise processing fees are eligible to be claimed as unused merchandise drawback. Paragraph (b)(2) is amended so as to provide that merchandise processing fees are ineligible for drawback except when unused merchandise drawback is claimed.

19 CFR 191.51

Section 191.51(b) of the Customs Regulations requires a drawback claimant to correctly calculate the amount of drawback due when completing a drawback entry.

As stated above, the court's interpretation of 19 U.S.C. 1313(j) requires that a drawback claimant apportion a merchandise processing fee to that merchandise that provides the basis for unused merchandise drawback in order to correctly calculate the amount of drawback due.

In order for a drawback claimant to be able to ascertain what portion of a merchandise processing fee is eligible to be claimed as unused merchandise drawback, a four-step apportionment calculation is necessary. First, as with any drawback claim where not all of the merchandise in a particular entry provides a basis for drawback, it is necessary for a claimant to calculate the value of each line item of entered merchandise subject to the fee, relative to the value of the entire entry subject to the fee. The resulting figure constitutes the ''relative value ratio''. Second, the relative value ratio for each line item is multiplied by the amount of merchandise processing fee paid in connection with the entry. The resulting figures represent the amount of merchandise processing fee attributable to each line item. Third, the amount of merchandise processing fee attributable to each line item that provides the basis for unused merchandise drawback is multiplied by 99 percent. The resulting figure represents that portion of the merchandise processing fee attributable to each line item that is eligible to be claimed as unused merchandise drawback, as per section 1313(j). Lastly, in order to calculate the amount of merchandise processing fee eligible for drawback per unit of merchandise, the amount of fee that is eligible to be claimed as unused merchandise drawback per line item is divided by the number of units covered by that line item.

As § 191.51(b) requires that a drawback claimant correctly calculate the amount of drawback due, and a claim for unused merchandise drawback for a merchandise processing fee will necessarily involve an apportionment calculation, this provision is amended to reflect that fact and to provide examples of the manner by which such apportionment calculations are to be made.

19 CFR 191.2(u)

Section 191.2(u) of the Customs Regulations (19 CFR 191.2(u)) sets forth the definition of the term ''relative value'' for purposes of part 191.

A drawback claimant is required to calculate the ''relative value ratio'' when determining what portion of a merchandise processing fee is eligible for unused merchandise drawback. *See* the amended text of § 191.51(b) of the Customs Regulations (19 CFR 191.51(b)), discussed below. As the term ''relative value ratio,'' as used in § 191.51(b), as amended, does not share the same meaning as the term ''relative value'' as set forth in § 191.2(u), and the two terms are similar enough to potentially cause confusion, § 191.2(u) is amended so as to exclude applicability to § 191.51(b).

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 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the 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 Prior Public Notice and Comment Procedures

Pursuant to the provisions of 5 U.S.C. 553(b)(B), Customs has determined that prior public notice and comment procedures on this regulation are unnecessary and contrary to public interest. The regulatory changes conform the Customs Regulations to reflect a recent decision by the Court of Appeals for the Federal Circuit. In addition, the regulatory changes benefit the public by allowing merchandise processing fees to be claimed as unused merchandise drawback, and by providing specific information as to how a drawback claimant is to correctly calculate that portion of a merchandise processing fee that is eligible to be claimed as unused merchandise drawback. For these 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 Executive Order 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 Suzanne Kingsbury, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 191

Claims, Commerce, Customs duties and inspection, Drawback.

Amendment to the Regulations

For the reason stated above, part 191 of the Customs Regulations (19 CFR part 191), is amended as set forth below.

PART 191—DRAWBACK

1. The general authority citation for part 191 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1313, 1624.

* * * * *

2. Section 191.2(u) is amended by adding the words '', except for purposes of § 191.51(b),'' after the word ''means'' in the first sentence.

3. Section 191.3 is amended:

a. In paragraph (a), introductory text, by adding the words ''and fees'' after the word ''Duties'';

b. At the end of paragraph (a)(1)(ii), by adding the word ''and'' after the semi-colon;

c. At the end of paragraph (a)(2), by removing the word ''and,'';

d. At the end of paragraph (a)(3), by removing the period and adding in its place ''; and'';

e. By adding a new paragraph (a)(4); and

f. By revising paragraph (b)(2).

The addition and revision read as follows:

§ 191.3 Duties and fees subject or not subject to drawback.

(a) * * *

(4) Merchandise processing fees (see § 24.23 of this chapter) for unused merchandise drawback pursuant to 19 U.S.C. 1313(j).

(b) * * *

(2) Merchandise processing fees (see § 24.23 of this chapter), except where unused merchandise drawback is claimed; and

* * * * *

4. Section 191.51(b) is amended by redesignating the existing text as paragraph (b)(1), adding a heading to newly redesignated paragraph (b)(1), and adding a new paragraph (b)(2) to read as follows:

§ 191.51 Completion of drawback claims.

* * * * *

(b) *Drawback due.*—(1) *Claimant required to calculate drawback.* * * *

(2) *Merchandise processing fee apportionment calculation.* Where a drawback claimant seeks unused merchandise drawback pursuant to 19 U.S.C. 1313(j) for a merchandise processing fee paid pursuant to 19 U.S.C. 58c(a)(9)(A), the claimant is required to correctly apportion the fee to that merchandise that provides the basis for drawback when calculating the amount of drawback requested on the drawback entry. This is determined as follows:

(i) *Relative value ratio for each line item.* The value of each line item of entered merchandise subject to a merchandise processing fee is calculated (to four decimal places) by dividing the value of the line item subject to the fee by the total value of entered merchandise subject to the fee. The resulting value forms the relative value ratio.

(ii) *Merchandise processing fee apportioned to each line item.* To apportion the merchandise processing fee to each line item, the relative value ratio for each line item is multiplied by the merchandise processing fee paid.

(iii) *Amount of merchandise processing fee eligible for drawback per line item.* The amount of merchandise processing fee apportioned to each line item is multiplied by 99 percent to calculate that portion of the fee attributable to each line item that is eligible for drawback.

(iv) *Amount of merchandise processing fee eligible for drawback per unit of merchandise.* To calculate the amount of a merchandise processing fee eligible for drawback per unit of merchandise, the line item amount that is eligible for drawback is divided by the number of units covered by that line item (to two decimal places).

Example 1

Line item 1—5,000 articles valued at $10 each total $50,000
Line item 2—6,000 articles valued at $15 each total $90,000
Line item 3—10,000 articles valued at $20 each total $200,000
Total units = 21,000
Total value = $340,000
Merchandise processing fee = $485 (for purposes of this example, the fee cap of $485, as per 19 U.S.C. 58c(a)(9)(B)(i), is applicable)

Line item relative value ratios. The relative value ratio for line item 1 is calculated by dividing the value of that line item by the total value ($50,000 ÷ 340,000 = .1470). The relative value ratio for line item 2 is .2647. The relative value ratio for line item 3 is .5882.

Merchandise processing fee apportioned to each line item. The amount of fee attributable to each line item is calculated by multiplying $485 by the applicable relative value ratio.

The amount of the $485 fee attributable to line item 1 is $71.295 (.1470 × $485 = $71.295). The amount of the fee attributable to line item 2 is $128.3795 (.2647 × $485 = $128.3795). The amount of the fee attributable to line item 3 is $285.277 (.5882 × $485 = $285.277).

Amount of merchandise processing fee eligible for drawback per line item. The amount of merchandise processing fee eligible for drawback for line item 1 is $70.5821 ÷ (.99 × $71.295). The amount of fee eligible for drawback for line item 2 is $127.0957 (.99 × $128.3795). The amount of fee eligible for drawback for line item 3 is $282.4242 (.99 × $285.277).

Amount of merchandise processing fee eligible for drawback per unit of merchandise. The amount of merchandise processing fee eligible for drawback per unit of merchandise is calculated by dividing the amount of fee eligible for drawback for the line item by the number of units in the line item. For line item 1, the amount of merchandise processing fee eligible for drawback per unit is $.0141 ($70.5821 ÷ 5,000 = $.0141). If 1,000 widgets form the basis of a claim for drawback under 19 U.S.C. 1313(j), the total amount of drawback attributable to the merchandise processing fee is $14.10 (1,000 × .0141 = $14.10). For line item 2, the amount of fee eligible for drawback per unit is $.0212 ($127.0957 ÷ 6,000 = $.0212). For line item 3, the amount of fee eligible for drawback per unit is $.0282 ($282.4242 ÷ 10,000 = $.0282).

Example 2

This example illustrates the treatment of dutiable merchandise that is exempt from the merchandise processing fee and duty-free merchandise that is subject to the merchandise processing fee.

Line item 1—700 meters of printed cloth valued at $10 per meter (total value $70,000) that is exempt from the merchandise processing fee under 19 U.S.C. 58c(b)(8)(ii)(B)(iii)

Line item 2—15,000 articles valued at $100 each (total value $1,500,000)

Line item 3—10,000 duty-free articles valued at $50 each (total value $500,000)

The relative value ratios are calculated using line items 2 and 3 only, as there is no merchandise processing fee imposed by reason of importation on line item 1.

Line item 2—1,500,000 ÷ 2,000,000 = .75 (line items 2 and 3 form the total value of the merchandise subject to the merchandise processing fee).

Line item 3—500,000 ÷ 2,000,000 = .25

If the total merchandise processing fee paid was $485, the amount of the fee attributable to line item 2 is $363.75 (.75 × $485 = $363.75). The amount of the fee attributable to line item 3 is $121.25 (.25 × $485 = $121.25).

The amount of drawback on the merchandise processing fee attributable to each unit of line item 2 is $.0243 ($363.75 ÷ 15,000 = $.02430). The amount of drawback on the merchandise processing fee attributable to each unit of line item 3 is $.0121 ($121.25 ÷ 10,000 = $.0121).

If 1,000 units of line item 2 were exported, the drawback attributable to the merchandise processing fee is $24.23 ($.02423 × 1,000 = $24.23).

* * * * *

Raymond W. Kelly,

Commissioner of Customs.

Approved: November 9, 2000.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–3358 Filed 2–8–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Pyrantel Pamoate Chewable Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Blue Ridge Pharmaceuticals, Inc. The ANADA provides for use of pyrantel pamoate chewable tablets for the removal of certain gastrointestinal parasites and prevention of reinfection in puppies and dogs.

DATES: This rule is effective February 9, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Blue Ridge Pharmaceuticals, Inc., 4249–105 Piedmont Pkwy., Greensboro, NC 27410, filed ANADA 200–281 that provides for use of WORMEXX® (pyrantel pamoate) Chewable Tablets for the removal of certain gastrointestinal parasites and prevention of reinfection in puppies and dogs. Blue Ridge's WORMEXX® Chewable Tablets is approved as a generic copy of Farnam Co.'s D–WORM® (pyrantel pamoate) Dog Wormer Chewable Tablets, approved under NADA 139–191. ANADA 200–281 is approved as of January 3, 2001, and 21 CFR 520.2041 is amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

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

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

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

List of Subjects in 21 CFR Part 520

Animal drugs.

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

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 520.2041 [Amended]

2. Section 520.2041 *Pyrantel pamoate chewable tablets* is amended in paragraph (b) by removing ''No. 017135'' and adding in its place ''Nos. 017135 and 065274''.

Dated: January 31, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01–3415 Filed 2–8–01; 8:45 am]

BILLING CODE 4160–01–F

INTERNAL REVENUE SERVICE

26 CFR Part 1

Filing of Consolidated Returns

CFR Correction

In Title 26 of the Code of Federal Regulations, Part 1 (§ 1.1401 to End), revised as of April 1, 2000, in § 1.1502–75, paragraph (k) is corrected by correctly revising ''See § 1.338(h)(10)–T(d)(7)'' to read ''See § 1.338(h)(10)–1T(d)(7)''.

[FR Doc. 01–55500 Filed 2–8–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720–AA62

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)/ TRICARE; Partial Implementation of Pharmacy Benefits Program; Implementation of National Defense Authorization Act Medical Benefits for Fiscal Year 2001

AGENCY: Office of the Secretary, DoD.

ACTION: Interim final rule.

SUMMARY: This interim final rule implements several sections of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. The rule allows coverage of physical examinations for beneficiaries ages 5 through 11 that are required in connection with school enrollment; provides an additional two-year period for survivors of deceased active-duty members to remain eligible for TRICARE medical and dental benefits at active-duty dependent rates; extends eligibility for medical and dental benefits to Medal of Honor recipients and their immediate dependents in the same manner as if the recipient were entitled to retired pay; partially implements the Pharmacy Benefits Program establishing revised copays and cost-shares for the prescription drug benefit; implements the TRICARE Senior Pharmacy Program by establishing a new eligibility for prescription drug benefits for Medicare-eligible retirees; allows a waiver of copayments, cost-shares, and deductibles for all Uniformed Services TRICARE eligible active duty family members residing with their TRICARE Prime Remote eligible Active Duty Service Member Sponsor within a TRICARE Prime Remote designated area until implementation of the TRICARE Prime Remote for Family Member Program or October 30, 2001, whichever is later; provides for the elimination of TRICARE Prime copayments for active duty family members enrolled in TRICARE Prime; provides for the reimbursement of reasonable travel expenses for TRICARE Prime beneficiaries referred by a primary care provider to a specialty care provider who provides services over 100 miles away; and reduces the maximum amount which retirees, their family members and survivors would be liable from $7,500 to $3,000. The Department is publishing this rule as an interim final rule in order to meet statutorily required effective dates. Public comments, however, are invited and will be considered as to possible revisions to this rule.

DATES: This rule is effective April 10, 2001. Written comments will be accepted until April 10, 2001.

ADDRESSES: Forward comments to Medical Benefits and Reimbursement Systems, TRICARE Management Activity, 16401 East Centretech Parkway, Aurora, CO 80011–9043.

FOR FURTHER INFORMATION CONTACT: Tariq Shahid, Medical Benefits and Reimbursement Systems, TRICARE Management Activity, Office of the Assistant Secretary of Defense (Health Affairs), telephone (303) 676–3801. Questions regarding payment of specific CHAMPUS claims should be addressed to the appropriate TRICARE/CHAMPUS contractor.

SUPPLEMENTARY INFORMATION:

I. Overview of the Rule

On October 30, 2000, the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398) was signed into law. This interim final rule implements provisions of this Act that were effective upon the date of enactment or a date within 180 days thereafter. Specifically, this rule implements the following sections of this Act:

Section 703, school required physicals, which was effective on the date of enactment;

Section 704, two-year extension of benefits for survivors, which was effective on the date of enactment;

Section 706, benefits for Medal of Honor recipients, which was effective on the date of enactment;

Section 711, TRICARE Senior Pharmacy Program, which is effective April 1, 2001;

Section 722, that portion of TRICARE Prime Remote for Family Members that was effective on the date of enactment;

Section 752, elimination of copayments for Active Duty Dependents in TRICARE Prime, which the statute requires be implemented within 180 days;

Section 758, reimbursement of certain travel expenses for TRICARE Prime beneficiaries, which was effective on the date of enactment; and

Section 759, reduction of retiree catastrophic cap, which was effective on the date of enactment.

In addition, because of the effect on the overall pharmacy program of the new TRICARE Senior Pharmacy Program and the change in TRICARE Prime active duty dependent copayments, this rule also partially implements the Pharmacy Benefits Program, as authorized by Section 1074g of title 10, United States Code, as a significant step toward expected implementation late in 2001 of the comprehensive Pharmacy Benefits Program.

II. School Requried Physicals

This rule implements Section 703 of the National Defense Authorization Act for Fiscal Year 2001 which extends coverage of physical examinations to CHAMPUS eligible beneficiaries ages 5 through 11 that are required in connection with school enrollment. The scope of the legislative provision encompasses all programs and beneficiary categories (i.e., coverage extends to active duty dependents, retirees and their dependents under TRICARE Prime, Standard and Extra plans). These newly covered school physicals will be recognized as preventive services, and as such, subject to the same cost-sharing/copayment and referral/authorization requirements as prescribed under TRICARE Prime and Standard/Extra clinical preventive benefits. TRICARE Prime enrollees will not be required to pay copayments or seek referral/authorization from their primary care managers (PCMs) unless they go to a non-network provider. While Standard and Extra beneficiaries will not require referral and/or authorization, they will have to pay the applicable cost-sharing and deductibles for preventive services as prescribed under their respective plans.

School physicals for TRICARE Prime enrollees ages 5 through 11 will be covered under the enhanced benefit provision of the CHAMPUS administering regulation (32 CFR 199.18(b)(3)), which allows benefit enhancements and waiver or relaxation of benefit restrictions under the Uniform HMO Benefit at the discretion of the Assistant Secretary of Defense (Health Affairs). However, since coverage also

extends to both Standard and Extra beneficiaries, an exception will be added to the preventive care general exclusion (32 CFR 199.4(g)(37)) that will allow school physicals for these beneficiary categories (i.e., active duty family members, retirees and their family members that are seeking care under Standard or Extra plans).

III. Two-Year Extension of Benefits for Survivors

This rule implements Section 704 of the National Defense Authorization Act for Fiscal Year 2001 which amended chapter 55 of title 10, United States Code, replacing the one-year period with an additional two-year extension for survivors of deceased active-duty members to remain eligible for TRICARE medical and dental benefits at active-duty dependent rate. Before the Authorization Act, survivors of members who die while on active duty were allowed to continue participation in TRICARE Prime, Extra, or Standard as active-duty dependent family members for a period of one year following the date of death of the deceased member. At the end of the one-year period, these family members continued eligibility for care under TRICARE, but faced higher out-of-pocket costs as non-active-duty dependents. With respect to the TRICARE dental insurance benefits, family members enrolled in the TRICARE Dental Program (TDP) at the time of the member's death, continued to receive benefits for one year from the member's date of death, with the Government paying 100 percent of the TDP premiums.

IV. Benefits for Medal of Honor Recipients

This rule implements Section 706 of the National Defense Authorization Act for Fiscal Year 2001 which amended chapter 55 of title 10, United States Code, by adding a new Section 1074h. Section 1074h expands eligibility to Medal of Honor recipients who are not otherwise entitled to medical and dental care including their immediate dependents. They are entitled to the same medical and dental benefit that is provided to former members who are entitled to military retired pay and the dependents of those former members. To receive TRICARE/CHAMPUS benefits, they must register in the Defense Enrollment Eligibility Reporting System (DEERS).

V. Partial Implementation of Pharmacy Benefits Program

The Secretary of Defense is required under title 10, United States Code, Section 1074g, to establish an effective, efficient, and integrated Pharmacy Benefits Program. The Secretary may establish cost sharing requirements under the Pharmacy Benefits Program as a percentage and/or fixed dollar amount for generic, formulary (non-generic), and non-formulary pharmaceutical agents. Designation of pharmaceutical agents as non-formulary will be based upon an evaluation of the agent's clinical and cost-effectiveness in comparison to other agents in the therapeutic class by the Department of Defense (DoD) Pharmacy and Therapeutics Committee and the comments of that evaluation by the Uniform Formulary Beneficiary Advisory Committee. The Department is unable to implement the portion of the Pharmacy Benefits Program that allows classification of a drug as non-formulary until Proposed and Final Rules fully implementing the Pharmacy Benefits Program have been published and required Committees become operational. However, partial implementation of the Pharmacy Benefits Program, including reform of cost sharing requirements under Section 1074g should proceed now in connection with the April 1, 2001, start date of the TRICARE Senior Pharmacy Program and overall reform of TRICARE Prime active duty dependent copayments.

The prescription drug and medicine benefit under CHAMPUS includes the Food and Drug Administration approved drugs and medicines that by United States law require a physician's or other authorized individual professional provider's prescription (acting within the scope of their license) that has been ordered or prescribed by them. The benefit does not include prescription drugs for medical conditions that are expressly excluded from the TRICARE benefit by statute or regulation. Pharmaceutical agents are subject to preauthorization or utilization review requirements to assure medical necessity. Until full implementation of the Pharmacy Benefits Program under which all authorized drugs will be classified as generic, formulary, or non-formulary, during this period of partial implementation, drugs and medicines shall be designated as either generic drugs and medicines, which are those that have the identical chemical composition of a name brand drug or medicine, or non-generic (or brand name) drugs.

Up to now, cost sharing requirements have been based upon beneficiary status, enrollment or non-enrollment in TRICARE Prime, and the location where the drug or medicine is purchased, i.e., the point of sale, such as a military treatment facility, network or non-network pharmacy, or the National Mail Order Pharmacy (NMOP). This led to a complex set of cost sharing requirements, difficult for beneficiaries to understand, lacking in clear incentives for appropriate use, and inconsistent with evolving industry practice. DoD is implementing new cost sharing requirements in this regulation, consistent with the Congressional direction to modernize the pharmacy program. Cost sharing requirements will no longer be based upon beneficiary status, except for active duty members who never pay copays. Cost sharing requirements of prescription drugs and medicines based upon their status as generic or non-generic are being implemented through this interim final rule. Cost sharing requirements will no longer be based upon a beneficiary's enrollment or non-enrollment in TRICARE Prime (except point of service charges will still apply), but will be based upon the drug or medicine's status as generic or non-generic and its point of sale.

The new cost sharing structure is based on commercial industry practices in pharmacy benefit design and benefit management. Cost sharing amounts were selected to assure that all beneficiaries could obtain a reduction in their current cost sharing through use of generic products, and that brand-name cost sharing was substantially higher than generic without unduly penalizing beneficiaries in relation to their current cost sharing levels.

Active duty members do not pay a cost-share. Cost sharing requirements for pharmaceutical agents for all other beneficiaries will be based upon the generic/non-generic status and the point of sale (i.e., network pharmacy, non-network pharmacy, NMOP) from which the agent was acquired. There is a $9.00 copay per prescription required under the retail pharmacy network program for up to a 30-day supply of a non-generic drug or medicine, and a $3.00 copay for up to a 30-day supply of a generic drug or medicine. There is a $9.00 copay per prescription required under the NMOP program for up to a 90-day supply of a non-generic drug or medicine, and a $3.00 copay for up to a 90-day supply of a generic drug or medicine. There is a 20 percent or $9.00 (whichever is greater) copay per prescription required for all drugs obtained under the retail pharmacy non-network program for up to a 30-day supply. The TRICARE Standard annual deductible of $150 individual/$300 family (or $50 individual/$100 family for lower grade enlisted families) applies to services obtained from non-network pharmacies.

The TRICARE annual catastrophic cap of $1,000 for active duty families and $3,000 for retiree families (as reduced by the Fiscal Year 2001 National Defense Authorization Act) also applies. TRICARE Prime enrollees generally face higher ''point-of-service'' cost sharing when they obtain non-network services, as described in § 199.17(n). With regard to pharmacy services, TRICARE Prime beneficiaries who use non-network pharmacies will face point-of-service cost sharing rather than the 20 percent cost sharing which applies to TRICARE Standard beneficiaries. This point-of-service cost sharing includes a deductible of $300 individual or $600 family, and a 50 percent cost share. No deductibles apply to prescription drugs acquired from network retail pharmacies and NMOP.

The revised co-pay amounts simplify the cost share structure and are consistent with the best business practices used in the private sector. The co-pay amounts were selected because they provide an equitable adjustment across the current co-pay matrix, will encourage the use of cost effective sources of pharmaceuticals for both the beneficiaries and the government, and will encourage the use of generic products where clinically appropriate. For most beneficiaries and in most circumstances, cost sharing will be reduced under the new cost sharing structure; in all cases beneficiaries will have lower costs if they use generic products. The pricing structure reflects a reduction for active duty dependents using the National Mail Order Pharmacy. In some cases, beneficiaries will pay more than at present if they obtain brand-name products: active duty family members will pay $4 to $5 more for brand-name products, and retirees and their family members will pay $1.00 more for mail order brand-name products. We solicit comment on the structure and amount of pharmacy cost sharing described above.

VI. TRICARE Senior Pharmacy Program

This rule implements Section 711 of the National Defense Authorization Act for Fiscal Year 2001, which establishes the TRICARE Senior Pharmacy Program for DoD beneficiaries who are 65 years of age and older, effective April 1, 2001. Under the TRICARE Senior Pharmacy Program, the Act requires the same coverage for pharmacy services and the same requirements for cost sharing and reimbursement as are applicable under Section 1086 of title 10, United States Code.

As specified further in the regulation, to be eligible for the TRICARE Senior Pharmacy Program, a person is required to be a retiree, dependent, or survivor who is Medicare eligible, 65 years of age or older, and enrolled in Medicare Part B (except for a person who attained age 65 prior to April 1, 2001).

To receive benefits under the TRICARE Senior Pharmacy Program, beneficiaries must register in the Defense Enrollment and Eligibility Reporting System (DEERS). Currently, the TRICARE Senior Pharmacy Program beneficiaries are not eligible to enroll in TRICARE Prime.

The benefit under the TRICARE Senior Pharmacy Program includes the Basic Program pharmacy benefit as found under 32 CFR 199.4(d)(vi). The senior beneficiaries are entitled to the same pharmacy benefit that was found at 32 CFR 199.17(k), but it is no longer limited to the Base Realignment and Closure (BRAC) sites and access to non-network retail drugstores is included. These beneficiaries will have access to retail network pharmacies, non-network pharmacies, and the National Mail Order Pharmacy (NMOP) program with the associated revised copays and cost-shares as described under Partial Implementation of Pharmacy Benefits Program, above. For prescription drugs acquired from non-network retail pharmacies, the Senior Pharmacy Program beneficiaries are subject to TRICARE Standard annual deductible of $150 individual/$300 family. The catastrophic cap of $3000.00 per federal fiscal year, as reduced by the Fiscal Year 2001 National Defense Authorization Act, will apply to beneficiaries who are eligible under the TRICARE Senior Pharmacy Program.

The double coverage rules in 32 CFR 199.8 are applicable to services provided to all beneficiaries under the retail pharmacy network, retail pharmacy non-network, or NMOP programs. For this purpose, to the extent they provide a prescription drug benefit, Medicare supplemental insurance plans or Medicare HMO plans are double coverage plans and will be the primary payor.

The TRICARE Senior Pharmacy Program will replace the BRAC pharmacy benefit and the Pharmacy Redesign Pilot Program in accordance with Section 711 of the Act.

VII. TRICARE Prime Remote for Family Members

This interim final rule implements Section 722(b)(2) of the National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) which modified Section 731(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85). This rule provides a waiver of charges for TRICARE eligible family members residing with their active duty uniformed services, TRICARE Prime Remote eligible sponsor who are not enrolled in TRICARE Prime.

Full implementation of the TRICARE Prime Remote program for active duty family members will be subject of a proposed rule to be published soon. The TRICARE Prime Remote program will supplant the waiver of charges described in this rulemaking, effective October 30, 2001 or later. In order to obtain coverage under the follow-on TRICARE Prime Remote program, it will be proposed that eligible beneficiaries will be required to enroll in TRICARE Prime and be subject to many of the rules of TRICARE Prime. Full details will be provided in the proposed rule to be published soon.

Some Active Duty Service Members (ADSM) are assigned Permanent Change of Station Orders to locations where Military Treatment Facilities are unavailable. TRICARE Prime Remote (TPR) was established by Section 731(b) of the National Defense Authorization Act for Fiscal Year 1998 to provide a TRICARE Prime-like benefit. As defined by 10 U.S.C. 1074(c)(3) the benefit is for ADSM assigned to remote locations, who pursuant to that assignment, work and reside at a location that is more than 50 miles, or approximately one hour of driving time to the nearest military medical treatment facility. ADSM who are TPR eligible are required to enroll in TPR. Starting October 30, 2000, TRICARE eligible Active Duty Family Members residing with TPR eligible ADSM sponsors within a TRICARE Prime Remote designated area, have copayments, cost-shares, and deductibles waived for CHAMPUS covered benefits, except for pharmacy benefits, until the implementation of TRICARE Prime Remote for Family Members or October 30, 2001 whichever is later. Non-covered CHAMPUS benefits are not waived and shall be processed according to current requirements. The claims processor will pay the waived portion of the claim to the eligible family member or the provider, as appropriate. If the claims processor is able to determine the eligible family member has already paid the waived portion of the claim the processor shall reimburse the family member. Retrospective payments of waived charges for dates of service on or after October 30, 2000 are authorized.

Eligible family members will be able to access authorized providers without preauthorization. However, when accessing care, eligible family members

are required to use network providers where and when available within the TRICARE access standards to obtain the waiver of charges. If a network provider cannot be identified within the access standards established under TRICARE, the eligible family member shall use an authorized provider to be eligible for the waiver. Existing specialty care preauthorization requirements remain in affect for eligible family members enrolled in TRICARE Prime. To the greatest extent possible, contractors will assist eligible family members in finding a TRICARE network, participating, or authorized provider.

VIII. Elimination of TRICARE Prime Copayments for Dependents of Active Duty Members

Section 752 of the National Defense Authorization Act for Fiscal Year 2001 provides that no copayment shall be charged for care provided under TRICARE Prime to a dependent of a member of the uniformed services. Copayments for prescriptions and point-of-service (POS) charges are not covered by this provision and will continue to be applied. Copayments for prescriptions will be in accordance with those authorized by 10 U.S.C. 1074g, partially implemented by this rule. This is consistent with the Conference Committee Report statement that ''it is not the intent of the conferees to eliminate copayments for pharmaceutical benefits under the mail order pharmacy program or such similar cost shares.'' (H. Conf. Rept. No 106–945, p. 819–20.) Point-of-service charges are not covered by Section 752 because they are not for care provided under TRICARE Prime, but rather for care provided outside the TRICARE Prime network structure under the POS option. The POS option allows enrollees to self-refer for non-emergency health care services to any TRICARE authorized civilian provider. The elimination of copayments applies to all CHAMPUS-covered services received by a TRICARE Prime active duty family member on or after April 1, 2001.

IX. Reimbursement of Reasonable Travel Expenses for Distant Referrals of TRICARE Prime Beneficiaries

Section 758 of the National Defense Authorization Act for Fiscal Year 2001 provides reimbursement of reasonable travel expenses for TRICARE Prime beneficiaries referred by their primary care manager to a specialty care provider who provides services more than 100 miles from the primary care manager's office.

X. Reduction of Retiree Catastrophic Cap

Section 759 of the National Defense Authorization Act for Fiscal Year 2001 modified chapter 55 of title 10, United States Code, by amending Section 1086(b)(4) and reducing the catastrophic cap on payments from $7,500 to $3,000 for retirees, their family members and survivors.

XI. Regulatory Procedures

Executive Order 12866 requires certain regulatory assessments for any significant regulatory action, defined as one which would result in an annual effect on the economy of $100 million or more, or have other substantial impacts. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This Interim Final Rule is a significant regulatory action under Executive Order 12866, as it would add over $200 million for DoD in annual healthcare benefit costs. This cost estimate is based on historical TRICARE costs and an assessment of potential users times average benefit costs per person for each of the provisions addressed. Benefits of the interim final rule include an increased level of health care, particularly pharmacy coverage for Medicare-eligible beneficiaries of the Department of Defense military health system. It has been determined to be major under the Congressional Review Act. However, this rule does not require a regulatory flexibility analysis as it would have no significant economic impact on a substantial number of small entities. This interim final rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511).

This rule is being issued as an interim final rule, with comment period, as an exception to our standard practice of soliciting public comments prior to issuance. The Acting Assistant Secretary of Defense (Health Affairs) has determined that following the standard practice in this case would be impracticable, unnecessary, and contrary to the public interest. This rule implements statutory requirements which became effective on the date of enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398), October 30, 2000, or within 180 days thereafter. Public comments could not be solicited and considered within the period allowed by law.

Public comments are invited. All comments will be carefully considered. A discussion of the major issues received by public comments will be included with the issuance of the final rule.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.3 is amended by revising paragraph (b)(2)(i)(D), by redesignating (b)(3) as paragraph (b)(2)(iii)(B)(*3*), by adding new paragraphs (b)(3) and (b)(4), and by revising paragraph (f)(3)(vi) and paragraph (f)(3)(vii) preceding the note to read as follows:

§ 199.3 Eligibility.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(D) Must not be eligible for Part A of Title XVIII of the Social Security Act (Medicare) except as provided in paragraphs (b)(3), (f)(3)(viii) and (f)(3)(ix) of this section; and

* * * * *

(4) *Eligibility under TRICARE Senior Pharmacy Program.* Section 711 of the National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398, 114 Stat. 1654) established the TRICARE Senior Pharmacy Program effective April 1, 2001. To be eligible for this program, a person is required to be:

(i) Medicare eligible, who is:

(A) 65 years of age or older; and

(B) Entitled to Medicare Part A; and

(C) Enrolled in Medicare Part B, except for a person who attained age 65 prior to April 1, 2001, is not required to enroll in Part B; and

(ii) Otherwise qualified under one of the following categories:

(A) A retired uniformed service member who is entitled to retired or retainer pay, or equivalent pay including survivors who are annuitants; or

(B) A dependent of a member of the uniformed services described in one of the following:

(*1*) A member who is on active duty for a period of more than 30 days or died while on such duty; or

(*2*) A member who died from an injury, illness, or disease incurred or aggravated while the member was:

(*i*) On active duty under a call or order to active duty of 30 days or less, on active duty for training, or on inactive duty training; or

(*ii*) Traveling to or from the place at which the member was to perform or had performed such active duty, active duty for training, or inactive duty training.

Note to paragraph (b)(3)(ii)(B): Dependent under Section 711 of the National Defense Authorization Act for Fiscal Year 2001 includes spouse, unremarried widow/widower, child, parent/parent-in-law, unremarried former spouse, and unmarried person in the legal custody of a member or former member, as those terms of dependency are defined and periods of eligibility are set forth in 10 U.S.C. 1072(2).

(5) *Medal of Honor recipients.* (i) A former member of the armed forces who is a Medal of Honor recipient and who is not otherwise entitled to medical and dental benefits has the same CHAMPUS eligibility as does a retiree.

(ii) *Immediate dependents.* CHAMPUS eligible dependents of a Medal of Honor Recipient are those identified in paragraphs (b)(2)(i) of this section (except for former spouses) and (b)(2)(ii) of this section (except for a child placed in legal custody of a Medal of Honor recipient under (b)(2)(ii)(H)(*4*) of this section).

(iii) *Effective date.* The CHAMPUS eligibility established by paragraphs (b)(5)(i) and (ii) of this section is applicable to health care services provided on or after October 30, 2000.

* * * * *

(f) * * *

(3) * * *

(vi) Attainment of entitlement to hospital insurance benefits (Part A) under Medicare except as provided in paragraphs (b)(3), (f)(3)(viii) and (f)(3)(ix) of this section. (This also applies to individuals living outside the United States where Medicare benefits are not available.)

(vii) Attainment of age 65, except for dependents of active duty members, beneficiaries not eligible for Part A of Medicare, and as provided in paragraph (b)(3) of this section. CHAMPUS eligibility is lost at 12:01 a.m. on the last day of the month preceding the month of attainment of age 65 until implementation of section 712 of the National Defense Authorization Act for Fiscal Year 2001.

* * * * *

3. Section 199.4 is amended by revising paragraphs (f)(10)(ii), (f)(10)(iii), and Note to paragraph (f)(10), and by adding new paragraphs (f)(11) and (g)(37)(xii) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(f) * * *

(10) * * *

(ii) *All other beneficiaries.* For all other categories of beneficiary families (including those eligible under CHAMPVA) the fiscal year cap is $3,000.

(iii) *Payment after cap is met.* After a family has paid the maximum cost-share and deductible amounts (dependents of active duty members $1,000 and all others $3,000), for a fiscal year, CHAMPUS will pay allowable amounts for remaining covered services through the end of that fiscal year.

Note to paragraph (f)(10): Under the Defense Authorization Act for Fiscal Year 2001, the cap for beneficiaries other than dependents of active duty members was reduced from $7,500 to $3,000 effective October 30, 2000. Prior to this, the Defense Authorization Act for Fiscal Year 1993 reduced this cap from $10,000 to $7,500 on October 1, 1992. The cap remains at $1,000 for dependents of active duty members.

(11) *Beneficiary or sponsor liability under the Pharmacy Benefits Program.* Beneficiary or sponsor liability under the Pharmacy Benefits Program is addressed in § 199.21.

(g) * * *

(37) * * *

(xii) Physical examinations for beneficiaries ages 5 through 11 that are required in connection with school enrollment, and that are provided on or after October 30, 2000.

* * * * *

4. Section 199.5 is amended by revising paragraph (b)(1)(iii)(A) to read as follows:

§ 199.5 Program for Persons with Disabilities (PFPWD).

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(A) For a period of three calendar years from the date an active duty sponsor dies; or

* * * * *

5. Section 199.13 is amended by revising paragraph (c)(3)(ii)(E)(*2*) to read as follows:

§ 199.13 TRICARE Dental Program.

* * * * *

(c) * * *

(3) * * *

(ii) * * *

(E) * * *

(*2*) *Continuation of eligibility for dependents of service members who die while on active duty or while a member of the Selected Reserve or Individual Ready Reserve.* Eligible dependents of active duty members while on active duty for a period of thirty-one (31) days or more and eligible dependents of Selected Reserve or Individual Ready Reserve members, as specified in 10 U.S.C. 10143 and 10144(b) respectively, who die on or after the implementation date of the TDP, and whose dependents are enrolled in the TDP on the date of the death of the active duty, Selected Reserve or Individual Ready Reserve member shall be eligible for continued enrollment in the TDP for up to 3 years from the date of the member's death where the member died on or after October 30, 1997.

* * * * *

6. Section 199.17 is amended by removing paragraph (a)(6)(iii)(D), by revising paragraph (k), by revising paragraph (m)(5), and by adding new paragraphs (m)(7) and (n)(2)(vi) to read as follows:

§ 199.17 TRICARE program.

* * * * *

(k) *Pharmacy services.* Pharmacy services under Prime are as provided in the Pharmacy benefits Program (see § 199.21).

* * * * *

(m) * * *

(5) *Prescription drugs.* Cost sharing for prescription drugs is as provided under the Pharmacy Benefits Program in § 199.21.

* * * * *

(7) *Cost sharing for additional beneficiaries under the TRICARE Prime Remote Program.* (i) Active duty family members, defined as the lawful husband or wife of a member, and children, as defined in § 199.3(b)(2)(ii)(A) through (b)(2)(ii)(F) and (b)(2)(ii)(H)(*1*), (b)(2)(ii)(H)(*2*), and (b)(2)(ii)(H)(*4*), residing with their Active Duty Service Member Sponsor who is TRICARE Prime Remote eligible will have cost-shares, co-payments, and deductibles waived for services provided on or after October 30, 2000. Pharmacy Benefits Program cost-shares established under § 199.21 apply to services provided on or after April 1, 2001. Active Duty Service Member Sponsors who are TRICARE Prime Remote eligible are those who receive a remote permanent duty assignment, and pursuant to the assignment, reside at a location that is more than 50 miles, or approximately one hour of driving time from the nearest military medical treatment

facility adequate to provide the needed care. Remote permanent duty assignments include permanent duty as a recruiter; permanent duty at an educational institution to instruct, administer a program of instruction, or provide administrative services in support of a program of instruction for the Reserves Officers' Training Corps; permanent duty as a full-time adviser to a unit of a reserve component; or any other permanent duty designated by the Secretary. This waiver applies to TRICARE covered benefits only. Claims processed with a date of service beginning on or after October 30, 2000 will waive the cost-share, copayment, and deductible. Active Duty Family Members residing with TPR eligible Active Duty Service Member (ADSM) have copayments, cost-shares, and deductibles for CHAMPUS covered benefits except pharmacy benefits waived until the implementation of TRICARE Prime Remote for Family Members or October 30, 2001, whichever is later. The claims processor will pay the waived portion of the claim to the eligible family member or to the provider, as appropriate.

(ii) Eligible family members will be able to access their provider without preauthorization. To obtain the waiver of charges, eligible family members are required to use network providers, where available and within the TRICARE access standards. Failure to do so will result in claims being processed under TRICARE Standard rules. For beneficiaries who are enrolled in TRICARE Prime, existing specialty care preauthorization requirements and Point of Service rules remain in effect.

(iii) To the greatest extent possible, contractors will assist eligible members in finding a TRICARE network, participating, or authorized provider. If a network provider cannot be identified within the access standards established under TRICARE, the eligible family member shall use an authorized provider to be eligible for the waiver.

(n) * * *

(2) * * *

(vi) In accordance with guidelines issued by the Assistant Secretary of Defense for Health Affairs, certain travel expenses may be reimbursed when a TRICARE Prime enrollee is referred by the primary care manager for medically necessary specialty care more than 100 miles away from the primary care manager's office received on or after October 30, 2000. Such guidelines shall be consistent with appropriate provisions of generally applicable Department of Defense rules and procedures governing travel expenses.

* * * * *

7. Section 199.18 is amended by revising paragraphs (c)(2), (c)(3), the heading for paragraph (d), paragraphs (d)(1), (d)(2)(i), (d)(2)(ii), (d)(2)(iii), (d)(2)(iv), (d)(2)(v), (d)(2)(vi), (d)(2)(vii), (d)(3), (e), and (g) to read as follows:

§ 199.18 Uniform HMO benefit.

* * * * *

(c) * * *

(2) *Amount of enrollment fees.* In fiscal year 2001, the annual enrollment fee for retirees and their dependents is $230 individual, $460 family.

(3) *Waiver of enrollment fee for certain beneficiaries.* The Assistant Secretary of Defense (Health Affairs) may waive the enrollment fee requirements of this section for Medicare-eligible beneficiaries.

(d) *Outpatient cost sharing requirements under the uniform HMO benefit*—(1) *In general.* In lieu of usual CHAMPUS cost sharing requirements (see § 199.4(f)), special reduced cost sharing percentages or per service specific dollar amounts are required. The specific requirements shall be uniform and shall be published periodically by the Assistant Secretary of Defense (Health Affairs). For care provided on or before April 1, 2001, no copayment shall be charged for care provided under TRICARE Prime to a dependent of an active duty member, except for the copayments charged under the Pharmacy Benefits Program (see § 199.21) and under the point of service option of TRICARE Prime (see § 199.17(n)(4)).

(2) * * *

(i) For most physician office visits and other routine services, there is a per visit fee for retirees and their dependents. This fee applies to primary care and specialty care visits, except as provided elsewhere in this paragraph (d)(2) of this section. It also applies to family health services, home health care visits, eye examinations, and immunizations. It does not apply to ancillary health services or to preventive health services described in paragraph (b)(2) of this section, or to maternity services under § 199.4(e)(16).

(ii) There is a copayment for outpatient mental health visits. It is a per visit fee for retirees and their dependents for individual visits. For group visits, there is a lower per visit fee for retirees and their dependents.

(iii) There is a cost share of durable medical equipment, prosthetic devices, and other authorized supplies for retirees and their dependents.

(iv) For emergency room services, there is a per visit fee for retirees and their dependents.

(v) For ambulatory surgery services, there is a per service fee for retirees and their dependents.

(vi) There is a copayment for prescription drugs per prescription, including medical supplies necessary for administration, for dependents of active duty members and for retirees and their dependents under the Pharmacy Benefits Program (see § 199.17(m)(5)).

(vii) There is a copayment for ambulance services for retirees and their dependents.

(3) *Amount of outpatient cost sharing requirements.* In fiscal year 2001, the outpatient cost sharing requirements are as follows:

(i) For most physician office visits and other routine services, as described in paragraph (d)(2)(i) of this section, the per visit fee for retirees and their dependents is $12.

(ii) For outpatient mental health visits, the per visit fee for retirees and their dependents is $25. For group outpatient mental health visits, there is a lower per visit fee for retirees and their dependents of $17.

(iii) The cost share for durable medical equipment, prosthetic devices, and other authorized supplies for retirees and their dependents is 20 percent of the negotiated fee.

(iv) For emergency room services, the per visit fee for retirees and their dependents is $30.

(v) For primary surgeon services in ambulatory surgery, the per service fee for retirees and their dependents is $25.

(vi) The copayments for prescription drugs are established under the Pharmacy Benefits Program (see § 199.21).

(vii) The copayment for ambulance services for retirees and their dependents is $20.

(e) *Inpatient cost sharing requirements under the uniform HMO benefit*—(1) *In general.* In lieu of usual CHAMPUS cost sharing requirements (see § 199.4(f)), special cost sharing amounts are required. The specific requirements shall be uniform and shall be published periodically by the Assistant Secretary of Defense (Health Affairs). For services provided on or after April 1, 2001, no co-payment shall be charged for inpatient care provided under TRICARE Prime to a dependent of an active duty member except under the point of service option of TRICARE Prime (see § 199.17(n)(4)). In addition, for services provided on or after April 1, 2001, no copayment shall be charged for inpatient care provided under TRICARE Prime to a dependent of an active duty member in military medical treatment facilities.

(2) *Structure of cost sharing.* For services other than mental illness or substance use treatment, there is a nominal copayment for retired members, dependents of retired members, and survivors. For inpatient mental health and substance use treatment, a separate per day charge is established. For services provided on or after April 1, 2001, no inpatient copayment shall be charged an active duty dependent enrolled in TRICARE Prime. This elimination of inpatient copayments applies to active duty dependents enrolled in TRICARE Prime who are admitted to a civilian or military inpatient facility.

(3) *Amount of inpatient cost sharing requirements.* In fiscal year 2001, the inpatient cost sharing requirements for retirees and their dependents for acute care admissions and other non-mental health/substance use treatment admissions is a per diem charge of $11, with a minimum charge of $25 per admission. For mental health/substance use treatment admissions, and for partial hospitalization services, the per diem charge for retirees and their dependents is $40.

* * * * *

(g) *Updates.* The enrollment fees for fiscal year 2001 set under paragraph (c) of this section and the per service specific dollar amounts for fiscal year 2001 set under paragraphs (d) and (e) of this section may be updated for subsequent years to the extent necessary to maintain compliance with statutory requirements pertaining to government costs. This updating does not apply to cost sharing that is expressed as a percentage of allowable charges; these percentages will remain unchanged.

8. A new § 199.21 is added to read as follows:

§ 199.21 Pharmacy Benefits Program.

(a) *In general*—(1) *Statutory authority.* 10 U.S.C. 1074g requires that the Department of Defense establish an effective, efficient, integrated Pharmacy Benefits Program for the Military Health System. This law is independent of a number of section of title 10 and other laws that affect the benefits, rules, and procedures of CHAMPUS/TRICARE, resulting in changes to the rules otherwise applicable to TRICARE Prime, Standard, and Extra. Among these changes is an independent set of beneficiary co-payments for prescription drugs.

(2) *Partial implementation during interim period.* Beginning April 1, 2001, 10 U.S.C. 1074g is partially implemented to coincide with the start of the TRICARE Senior Pharmacy Program and substantial cost sharing changes for active duty dependents enrolled in Prime. Some authorities and requirements of Section 1074g, such as the classification of drugs as formulary or non-formulary under a ''uniform formulary of pharmaceutical agents,'' are not yet implemented. In this section, references to ''interim implementation period'' mean the period beginning April 1, 2001.

(b) *Program benefits.* During the interim implementation period, prescription drugs and medicines are available under the otherwise applicable rules and procedures for military treatment facility pharmacies, TRICARE Prime, Standard, and Extra, and the Mail Order Pharmacy Program. There is not during this interim implementation period a ''uniform formulary'' of drugs and medicines available in all of these parts of the system. All cost sharing requirements for prescription drugs and medicines are established in this section for pharmacy services provided throughout the Military Health System.

(c) *Providers of pharmacy services.* There are four categories of providers of pharmacy services: military treatment facilities (MTFs), network retail providers, non-network retail providers, and the mail service pharmacy program. Network retail providers are those non-MTF pharmacies that are a part of the network established for TRICARE Prime under § 199.17. Non-network pharmacies are those non-MTF pharmacies that are not part of such a network.

(d) *Classifications of drugs and medicines.* During the interim implementation period, a distinction is made for purposes of cost sharing between generic drugs and non-generic (or brand name) drugs.

(e) *TRICARE Senior Pharmacy Program.* Section 711 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398, 114 Stat. 1654) established the TRICARE Senior Pharmacy Program for Medicare eligible beneficiaries effective April 1, 2001. These beneficiaries are required to meet the eligibility criteria as prescribed in § 199.3. The benefit under the TRICARE Senior Pharmacy Program includes the Basic Program pharmacy benefit as found under § 199.4(d) and the pharmacy benefit and cost sharing as found under this part. The TRICARE Senior Pharmacy Program applies to prescription drugs and medicines provided on or after April 1, 2001.

(f) *Cost sharing.* Beneficiary cost sharing requirements for prescription drugs and medicines are based upon the generic/non-generic status and the point of sale (i.e., MTF, network pharmacy, non-network pharmacy, mail service pharmacy) from which they are acquired. For this purpose, a generic drug is a non-brand name drug. A non-generic drug is a brand name drug. In the case of a brand name drug for which there is no generic equivalent, the non-generic cost share applies.

(1) *Military treatment facilities.* There are no cost sharing requirements for drugs and medicines provided by MTF pharmacies.

(2) *Retail pharmacy network program.* There is a $9.00 co-pay per prescription required under the retail pharmacy network program for up to a 30-day supply of a non-generic drug or medicine, and a $3.00 co-pay for up to a 30-day supply of a generic drug or medicine. There is no annual deductible for drugs and medicines provided under the retail pharmacy network program.

(3) *Mail service pharmacy program.* There is a $9.00 co-pay per prescription required under the mail service pharmacy program for up to a 90-day supply of a non-generic drug or medicine, and a $3.00 co-pay for up to a 90-day supply of a generic drug or medicine. There is no annual deductible for drugs and medicines provided under the mail service pharmacy program.

(4) *Non-network retail pharmacies.* There is a 20 percent or $9.00 (whichever is greater) co-pay per prescription required for up to a 30-day supply of a drug obtained from a non-network pharmacy. A point of service cost-share of 50 percent applies in lieu of the 20 percent copay for TRICARE Prime enrollees who obtain their prescriptions from a non-network retail pharmacy without proper authorization. In addition, these TRICARE Prime enrollees are subject to higher deductibles as provided in § 199.17(m)(1)(i) and (m)(2)(i). For prescription drugs acquired from non-network retail pharmacies, beneficiaries other than Prime enrollees (including TRICARE Senior Pharmacy Program beneficiaries) are subject to the $150.00 per individual or $300.00 maximum per family (or for dependents of sponsors in pay grades below E–5, $50 per individual or $100 per family) annual fiscal year deductible.

(g) *Effect of other health insurance.* The double coverage rules of § 199.8 are applicable to services provided under the Pharmacy Benefits Program. For this purpose, to the extent they provide a prescription drug benefit, Medicare supplemental insurance plans or Medicare HMO plans are double coverage plans and will be the primary payor.

(h) *Procedures.* The Director, TRICARE Management Activity shall establish procedures for the effective operation of the Pharmacy Benefit Program. Such procedures may include restrictions of the quantity of pharmaceuticals to be included under the benefit, encouragement or requirement of the use of generic drugs, implementation of quality assurance and utilization management activities, and other appropriate matters.

9. Section 199.22 is amended by revising paragraph (d)(1)(i), the first sentence of paragraph (d)(3), and paragraph (d)(5) to read as follows:

§ 199.22 TRICARE Retiree Dental Program (TRDP).

* * * * *

(d) * * *

(1) * * *

(i) Members of the Uniformed Services who are entitled to retired pay, or a former member of the armed forces who is a Medal of Honor recipient and who is not otherwise entitled to medical and dental benefits who has requested medical and dental care benefits in the manner described in § 199.3(j)(1) or their immediate dependents as defined by § 199.3(b)(ii);

* * * * *

(3) *Election of coverage.* In order to initiate dental coverage, election to enroll must be made by the member or eligible dependent. * * *

* * * * *

(5) *Period of coverage.* TRICARE Retiree Dental Program coverage is terminated when the member's entitlement to retired pay is terminated, the member's status as a member of the Retired Reserve is terminated, the member's status as a Medal of Honor recipient is terminated, a dependent child loses eligible child dependent status, or in the case of remarriage of the surviving spouse.

* * * * *

Dated: February 1, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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BILLING CODE 5000–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 95 and 177

[USCG–1998–4593]

RIN 2115–AF72

Revision to Federal Blood Alcohol Concentration (BAC) Standard for Recreational Vessel Operators: Delay of Effective Date

AGENCY: Coast Guard, Department of Transportation.

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001 (66 FR 7702), this action temporarily delays for 60 days the effective date of the rule entitled Revision to Federal Blood Alcohol Concentration (BAC) Standard for Recreational Vessel Operators, published in the **Federal Register** on January 10, 2001, 66 FR 1859. That rule concerns revising the Federal Blood Alcohol Concentration (BAC) standard under which a recreational vessel operator would be considered operating while ''intoxicated''.

DATES: The effective date of the final rule amending 33 CFR parts 95 and 177 published in the **Federal Register** on January 10, 2001, at 66 FR 1859, is delayed for 60 days, from March 12, 2001, until May 11, 2001.

FOR FURTHER INFORMATION CONTACT: Carlton Perry, Project Manager, Office of Boating Safety, U.S. Coast Guard, by telephone at 202–267–0979.

SUPPLEMENTARY INFORMATION: To the extent that 5 U.S.C. section 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. section 553(b)(A). Alternatively, the Coast Guard's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register,** is based on the good cause exceptions in 5 U.S.C. section 553(b)(B) and 553(d)(3). Seeking public comment is impracticable, unnecessary and contrary to the public interest. The temporary 60-day delay in effective date is necessary to give Department officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001. Given the imminence of the effective date, seeking prior public comment on this temporary delay would have been impracticable, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. The imminence of the effective date is also good cause for making this action effective immediately upon publication.

Dated: January 31, 2001.

Terry M. Cross,

Rear Admiral, U.S. Coast Guard Assistant Commandant for Operations.

[FR Doc. 01–3208 Filed 2–8–01; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11–01–002]

RIN 2115–AE46

Special Local Regulations: Parker International Waterski Marathon

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements 33 CFR 100.1102, Marine Events on the Colorado River, between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona), for the Parker International Waterski Marathon. The race will consist of power driven vessels ranging in size from 19–26 feet for a waterski competition. These regulations will be effective on that portion of the Colorado River beginning at Bluewater Marina in Parker, AZ, and extending approximately 10 miles to La Paz County Park. Notice of Implementation of 33 CFR 100.1102 is necessary to control vessel traffic in the regulated areas during the event to ensure the safety of participants and spectators.

Pursuant to 33 CFR 100.1102(c), Commanding Officer, Coast Guard Activities San Diego, is designated Patrol Commander for this event; he has the authority to delegate this responsibility to any Coast Guard, public, state, local law enforcement, and/or sponsor provided vessels. For this event, the Coast Guard has designated the Colorado River Indian Tribe Police as Patrol Commander.

EFFECTIVE DATES: This section is effective from 8 a.m. (MST) until 4:30 p.m. (MST) on March 10, 2001 through March 11, 2001. If the event concludes prior to the scheduled termination date and/or time, the Colorado River Indian Tribe Police will cease enforcement of this section.

FOR FURTHER INFORMATION CONTACT: Petty Officer Nicole Lavorgna, U. S. Coast Guard MSO San Diego, San Diego, California; Telephone: (619) 683–6495.

Discussion of Implementation. These Special Local Regulations permit Coast Guard or their designated representative control of vessel traffic in order to ensure the safety of spectator and participant vessels. In accordance with the regulations in 33 CFR 100.1102, no persons or vessels shall block, anchor, or loiter in the regulated area; nor shall any person or vessel transit through the regulated area, or otherwise impede the transit of participant or official patrol vessels in the regulated area, unless cleared for such entry by or through an official patrol vessel acting on behalf of the Patrol Commander.

Dated: January 30, 2001.

D.W. Kunkel,

U.S. Coast Guard Commander, Eleventh Coast Guard District, Acting.

[FR Doc. 01–3371 Filed 2–8–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 95–059]

RIN 2115–AF17

Regattas and Marine Parades: Delay of Effective Date

AGENCY: Coast Guard, DOT.

ACTION: Final rule; delay of effective date and conforming amendments.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001 (66 FR 7702), this action temporarily delays for 60 days the effective date of the rule entitled ''Regattas and Marine Parades,'' published in the **Federal Register** on January 9, 2001, 66 FR 1580, and makes conforming amendments to reflect the effective date delay. That rule establishes the minimum time for submitting an application to hold a regatta or marine parade before the event is scheduled to take place.

DATES: The effective date of the final rule, amending 33 CFR part 100 and withdrawing the interim rule published at 61 FR 33027, published in the **Federal Register** on January, 2001, at 66 FR 1580, is delayed for 60 days, from March 12, 2001, until May 11, 2001. The conforming amendments are effective May 11, 2001.

FOR FURTHER INFORMATION CONTACT: Carlton Perry, Project Manager, Office of Boating Safety, U.S. Coast Guard Headquarters (G–OPB–1/3100), 2100 Second Street SW., Washington, DC 20593–0001, 202–267–0979.

SUPPLEMENTARY INFORMATION: To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, the Coast Guard's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). Seeking public comment is impracticable, unnecessary, and contrary to the public interest. The temporary 60-day delay in effective date is necessary to give Department officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001. Given the imminence of the effective day, seeking prior public comment on this temporary delay would have been impractical, as well as contrary to the public interest, in the orderly promulgation and implementation of regulations. The imminence of the effective date is also good cause for making this action effective immediately upon publication.

We are changing the dates in 33 CFR 100.15(d) and (e), Submission of application, to delay them for 60 days. The original dates were keyed to the effective date of the final rule. Therefore, because of the 60-day delay in the effective date of the final rule, we are changing, in § 100.15(d) and (e), ''July 10, 2001,'' to ''September 8, 2001,'' and, in § 100.15(e), ''September 24, 2001,'' to ''November 23, 2001.''

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

§ 100.15 [Amended]

2. In § 100.15, as amended at 66 FR 1582 effective May 11, 2001, in paragraph (d), remove ''July 10, 2001'' and add, in its place, ''September 8, 2001''; and, in paragraph (e), remove ''July 10, 2001'' and add, in its place, ''September 8, 2001'' and remove ''September 24, 2001'' and add, in its place, ''November 23, 2001''.

Dated: January 26, 2001.

Terry M. Cross,

Rear Admiral, U.S. Coast Guard Assistant Commandant for Operations.

[FR Doc. 01–3205 Filed 2–8–01; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–013]

Drawbridge Operation Regulations: Chelsea River, MA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations governing the operation of the Chelsea Street Bridge, at mile 1.2, across the Chelsea River between East Boston and Chelsea, Massachusetts. This deviation allows the bridge owner to keep the bridge in the closed position from 6 a.m. on February 7, 2001 through 6 a.m. on February 8, 2001 and from 6 a.m. on February 21, 2001 through 6 a.m. on February 22, 2001. This action is necessary to facilitate emergency maintenance at the bridge.

DATES: This deviation is effective from February 7, 2001 through February 8, 2001 and from February 21, 2001 through February 22, 2001.

FOR FURTHER INFORMATION CONTACT: John W. McDonald, Project Officer, First Coast Guard District, at (617) 223–8364.

SUPPLEMENTARY INFORMATION: The Chelsea Street Bridge, at mile 1.2, across the Chelsea River, has a vertical clearance of 9 feet at mean high water, and 19 feet at mean low water in the closed position. The existing drawbridge operating regulations require the bridge to open on signal at all times.

The bridge owner, the City of Boston, requested a temporary deviation from the drawbridge operating regulations to facilitate emergency structural maintenance and repairs to the alternate operating system at the bridge.

This deviation from the operating regulations allows the bridge owner to

keep the bridge in the closed position from 6 a.m. on February 7, 2001 through 6 a.m. on February 8, 2001 and from 6 a.m. on February 21, 2001 through 6 a.m. on February 22, 2001.

Thirty days notice to the Cost Guard for approval of this maintenance repair was not given by the bridge owner and was not required because this work involves vital, unscheduled maintenance that must be performed without undue delay.

Vessels that can pass under the bridge without an opening may do so at all times during the closed period.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 30, 2001.

G.N. Naccara,

U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 01–3375 Filed 2–8–01; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–01–009]

Drawbridge Operation Regulations; Brorein Street Bridge, Across the Hillsborough River, Tampa, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Brorein Street Bridge across the Hillsborough River, mile 0.16, Tampa, Florida. This deviation allows the drawbridge to remain closed to navigation for five days, from 7 a.m. on February 26, 2001 until 12 p.m. on March 2, 2001. This temporary deviation is required to allow the bridge owner to safety complete removal of asbestos from the tender's control room and from the electrical wiring of the bridge operating system.

DATES: This deviation is effective from February 26, 2001 to March 2, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Chief, Operations Section, Seventh Coast Guard District, Bridge Section at (305) 415–6743.

SUPPLEMENTARY INFORMATION: The Brorein Street Bridge across the Hillsborough River at Tampa, has a vertical clearance of 15 feet above mean high water (MHW) measured at the fenders in the closed position with a horizontal clearance of 80 feet. On January 31, 2001, Acutec, Inc., acting as an agent for the drawbridge owner, requested a deviation from the current operating regulation in 33 CFR 117.291(a) which requires the drawbridge to open on signal if at least two hours notice is given. This temporary deviation was requested to allow necessary repairs to the drawbridge in a critical time sensitive manner.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.291(a) for the purpose of repair completion of the drawbridge. Under this deviation, the Brorein Street Bridge need not open from 7 a.m. February 26, 2001 until 12 p.m. March 2, 2001. The deviation is effective for five days.

Dated: February 1, 2001.

Greg E. Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 01–3374 Filed 2–8–01; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–01–005]

Drawbridge Operation Regulations; Sanibel Causeway Bridge

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Sanibel Causeway Bridge (SR 869) across San Carlos Bay, mile 151, Punta Rassa, Florida. This deviation will change the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. This deviation extends the scheduled bridge openings each day by four hours and also changes the period of the openings from every 15 minutes to every 30 minutes, from March 1, 2001 to April 30, 2001.

EFFECTIVE DATE: This deviation is effective from March 1, 2001, to April 30, 2001. Comments must be received by May 30, 2001.

ADDRESSES: You may mail comments and related material to Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Miami, FL 33131. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE., 1st Avenue, Miami, FL 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Chief, Operations Section, Seventh Coast Guard District, Bridge Section at (305) 415–6743.

SUPPLEMENTARY INFORMATION: The Sanibel Causeway Bridge across San Carlos Bay at Punta Rassa, is a double leaf bridge with a vertical clearance of 26 feet above mean high water (MHW) measured at the fenders in the closed position with a horizontal clearance of 90 feet. The current operating regulation in 33 FR 117.317(j) requires the bridge to open on signal; except that from 11 a.m. to 6 p.m., the draw need open only on the hour, quarter hour, half hour, and three quarter hour. From 10 p.m. to 6 p.m. the draw will open on signal if at least a five-minute advance notice is given.

On November 28, 2000, the drawbridge owner requested a deviation from the current operating regulations to allow the owner to conduct a study of the bridge openings and vehicular traffic patterns which are exacerbated during the winter tourist season. The temporary schedule will require the bridge to open on signal; except that from 7 a.m. to 6 p.m., the draw need open only on the hour and half-hour. The five-minute notice from 10 p.m. to 6 a.m. will remain in effect.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.317(j) for the purpose of conducting this study. Under this deviation, the Sanibel Causeway Bridge need only open on the hour and half hour, 7 a.m. to 6 p.m., from March 1, 2001 until April 30, 2001. From 10 p.m. to 6 a.m. the draw will open on signal if at least a five-minute advance notice is given. The deviation is effective from March 1, 2001 to April 30, 2001.

Request for Comments

We encourage you to participate in this evaluation of the test schedule by submitting comments and related material. If you do so, please include your name and address, identify the

docket number for this deviation [CGD07–01–005], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Dated: February 1, 2001.

Greg E. Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 01–3373 Filed 2–8–01; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 31 and 35

[FRL–6943–5]

RIN 2030 AA56

Environmental Program Grants for Tribes, Final Rule: Delay of Effective Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001, this action temporarily delays for 60 days the effective date of the rule entitled Environmental Program Grants for Tribes, published in the **Federal Register** on January 16, 2001, 66 FR 3781. This rule concerns several Environmental Protection Agency (EPA) grant programs for Indian Tribes and Intertribal Consortia. It creates a new Tribal-specific subpart which contains only the provisions for environmental program grants that apply to Tribes and addresses the Performance Partnership Grant program for Tribes.

DATES: The effective date of the Environmental Program Grants for Tribes regulation amending 40 CFR parts 31 and 35 published in the **Federal Register** on January 16, 2001, at 66 FR 3781, is delayed for 60 days, from February 15, 2001, to a new effective date of April 17, 2001.

FOR FURTHER INFORMATION CONTACT: W. Scott McMoran, Grants Administration Division (3903R), United States Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, Telephone: (202) 564–5376, McMoran.Scott@epa.gov.

SUPPLEMENTARY INFORMATION: The temporary 60-day delay in effective date is necessary to give Agency officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001. This action involves matters relating to grants and under 5 U.S.C. 553(a)(2) is thus exempt from the notice and comment requirements of the Administrative Procedure Act.

Dated: January 29, 2001.

David J. O'Connor,

Acting Assistant Administrator, Office of Administration and Resources Management.

[FR Doc. 01–3380 Filed 2–8–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[RI–01–043–6991a; A–1–FRL–6943–3]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision establishes and requires the implementation of an enhanced motor vehicle inspection and maintenance program. The intended effect of this action is to approve this program. This action is being taken in accordance with the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on March 12, 2001.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room M–1500, 401 M Street, (Mail Code 6102), SW., Washington, DC; and Department of Environmental Management, 235 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Peter Hagerty, (617) 918–1049.

SUPPLEMENTARY INFORMATION: This Supplementary Information section is organized as follows:

I. What action is EPA taking today?
II. What deficiencies were identified in the notice of proposed rulemaking and how did Rhode Island address them?
III. What emission reduction credit may Rhode Island assume in the interim until the EPA has information available to assign appropriate credit?
IV. EPA Action.
V. Administrative Requirements.

I. What Action is EPA Taking Today?

In this action we are approving the submittal of an enhanced motor vehicle inspection and maintenance (I/M) program submitted by Rhode Island as a formal SIP revision on January 19, 2001. We are also approving an interim level of emission reduction credit for Rhode Island to use for planning purposes. This action was proposed on December 18, 2000 in the **Federal Register** (65 FR79040) and no comments were received on the proposal.[1]

II. What Deficiencies Were Identified in the Notice of Proposed Rulemaking and How Did Rhode Island Address Them?

In order to meet certain requirements of EPA's I/M rule, Rhode Island was required to include in its final submittal: (1) a commitment to maintain a 96% compliance rate (or revise the SIP accordingly), (2) the appropriate enforcement oversight provisions for the Department of Motor Vehicles (DMV), and (3) a demonstration of the performance of its test-and-repair network. The final SIP submittal from Rhode Island address each of these requirements. Section 2 of the SIP narrative entitled ''I/M Performance Standard,'' now includes the appropriate commitment, as required by 40 CFR 51.361—Motorist Compliance Enforcement, to a 96% compliance rate.

[1] EPA proposed this SIP revision using a ''parallel process.'' EPA provided for the public to comment on this SIP revision by making available the rules and materials that Rhode Island was proposing for approval on the state level in parallel with EPA's action. Rhode Island promulgated those rules prior to submitting them to EPA for this approval. One set of rules implementing this I/M program (Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1) will not be finally effective until January 31, 2001, because Rhode Island law requires 20 days to elapse after a regulation is filed with the Secretary of State. Therefore, Regulation No. 1 will be effective shortly after signature of this notice, but prior to publication of this action in the **Federal Register** and prior to this action taking effect under the Clean Air Act. EPA is signing this action now because the State has done everything necessary for Regulation No. 1 to take effect on January 31, 2001, and we are simply awaiting passage of the 20 day filing period. See R.I. Gen. Laws section 42–35–4(b).

In section 14 of the SIP narrative entitled ''Motorist Compliance Enforcement,'' information on training, auditing, and oversight of enforcement personnel which meets the requirements of 40 CFR 51.362—Motorist Compliance Enforcement Oversight has been added. Lastly, as required in the notice of proposed rulemaking, Rhode Island has submitted information on failure rate by model year, number of waivers issued by month for the first six months of the program, and station audit sheets for a typical month of the program. The failure rates are almost identical to a nearby state utilizing the same equipment and test method. The waiver rate is 2.8% which is below the 3% in the plan, and the station audits show a very high rate of compliance. See supplemental technical support document dated January 24, 2001 for more specific information on this evaluation. EPA has concluded that Rhode Island's I/M program performance is sufficiently effective to meet the low enhanced performance standard. Rhode Island has met the requirements of section 40 CFR 51.353. (See III. below for information on interim credit.)

III. What Emission Reduction Credit May Rhode Island Assume in the Interim Until the EPA has Information Available to Assign Appropriate Credit?

As discussed in detail in the proposed rulemaking notice, we are approving the use of 75% of I/M 240 credit for future air quality planning in Rhode Island. Once the comparison study results are available from the Massachusetts study on this same test type which Rhode Island will be relying on to verify its credit, EPA will establish appropriate credit for the BAR31 test done on NYTEST equipment. If the emission reduction credits assigned do not meet or exceed the credit assumed by Rhode Island, Rhode Island and EPA will take appropriate action to correct any SIP shortfall in any SIP demonstrations that may rely on credit from the I/M program.

Other specific requirements of the EPA I/M rule and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

IV. EPA Action

EPA is approving the Rhode Island enhanced motor vehicle inspection and maintenance program as a revision to the Rhode Island SIP.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as addressing Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 10, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: January 31, 2001.

Stephen Perkins,

Acting Regional Administrator, EPA-New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart OO—Rhode Island

2. In § 52.2070 the table in paragraph (c) is amended by adding a new entry in numerical order under ''Air Pollution Control Regulation'' and by adding a new State citation to the end of the table for ''Rhode Island Motor Vehicle Safety and Emissions Control Regulation'' to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED RHODE ISLAND REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
* * *	*	*	* *	*
Air Pollution Control Regulation No. 34.	Rhode Island Motor Vehicle Inspection/Maintenance Program.	March 30, 2000	February 9, 2001	Department of Environmental Management regulation containing I/M standards.
* * *	*	*	* *	*
Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1.	Rhode Island Motor Vehicle Inspection/Maintenance Program.	January 31, 2001	[Insert *FR* citation from published date].	Department of Administration regulation for the I/M program.
* * *	*	*	* *	*

[FR Doc. 01–3284 Filed 2–8–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Docket WA–00–01; 6937–5]

Clean Air Act Reclassification; Wallula, Washington Particulate Matter (PM–10) Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA has determined that the Wallula nonattainment area has not attained the National Ambient Air Quality Standards for particulate matter with an aerodynamic diameter of less than or equal to 10 microns by the attainment date of December 31, 1997, as required by the Clean Air Act. EPA's finding is based on EPA's review of monitored air quality data reported for the years 1995 through 2000. As a result of this finding, the Wallula PM–10 nonattainment area will be reclassified by operation of law as a serious PM–10 nonattainment area.

DATES: Effective March 12, 2001.

ADDRESSES: Copies of all information supporting this action are available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Pacific Standard Time at EPA Region 10, Office of Air Quality, 10th Floor, 1200 Sixth Avenue, Seattle, Washington 98101. A reasonable fee may be charged for copies.

FOR FURTHER INFORMATION CONTACT: Donna Deneen, EPA, Region 10, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–6706.

SUPPLEMENTARY INFORMATION:

I. Background

On November 16, 2000, we solicited public comment on a proposal to find that the Wallula nonattainment area has not attained the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to 10 microns (PM–10) by the attainment date of December 31, 1997, as required by the Clean Air Act. Such a finding would result in the reclassification of the Wallula PM–10 nonattainment area as a serious PM–10 nonattainment area by operation of law. In the proposal, we stated that EPA would accept public comments on the proposal until December 1, 2000. See 65 FR 69275.

During the public comment period that ended December 1, 2000, numerous commenters asked for an extension of the public comment period. In light of the significant public interest in the proposal and in response to the numerous request for an extension, EPA reopened the public comment period to December 27, 2000, resulting in a public comment period of at least 30 days. See 65 FR 77544 (December 12, 2000). In addition, in conjunction with other public agencies in the Wallula area, EPA held an informational meeting regarding the proposal at the Walla Walla County Airport on December 15, 2000. The purpose of the meeting was to provide an opportunity for EPA to explain to the community the basis for its proposal and an opportunity for the community to ask questions of EPA. See 65 FR at 77545. EPA also accepted written comments at the meeting.

EPA received written comments on the proposal from more than 30 commenters. After carefully reviewing and considering all comments received, EPA finds that the Wallula nonattainment area has not attained the PM–10 NAAQS by the attainment date of December 31, 1997, as required by the Clean Air Act. Copies of all written comments received by EPA are in the docket.

II. Major Issues Raised By Commenters

The following is a summary of the major issues raised in comments on the proposal, along with a summary of EPA's responses to those issues. A separate document containing responses to all comments on the proposal (Response to Comments) is in the docket.

A. Public Participation

Almost every commenter requested that the original 15-day public comment period be extended to provide more opportunity for public review of EPA's proposal and more opportunity for public input. Many requested that the public comment period be extended to as long as 120 days and several

commenters requested that EPA hold a public hearing before taking final action.

This action is subject to the requirements of the Administrative Procedures Act (APA) regarding notice and public comment. 5 U.S.C. 551–559. The APA requires EPA to provide notice of all proposed rulemakings in the **Federal Register** and to provide interested persons an opportunity to participate in the rulemaking through the submission of written data, views, or arguments, with or without the opportunity for oral presentation. 5 U.S.C. 553(b) and (c). As discussed above, in response to the many requests for an extension of the public comment period, EPA reopened the public comment period on the proposal, providing at least 30 days for public comment. The issues involved in the proposal are relatively straightforward: Whether the available air monitoring data shows that the Wallula PM–10 nonattainment area attained the PM–10 NAAQS by the attainment date of December 31, 1997. As discussed in more detail below, the air quality data on which EPA is relying in this action has been certified by State of Washington, Department of Ecology (Ecology), as valid data and was put into a publicly available data system several years ago. EPA believes that, under the circumstances, a public comment period of at least 30 days provided an adequate opportunity for interested parties to participate in the rulemaking process.

With respect to the requests for a hearing, the APA does not require a public hearing before final action. Rather, it makes clear that the requirement to provide interested persons an opportunity to participate in the rulemaking process through the submission of written data, views, or arguments may be ''with or without opportunity for oral presentation.'' 5 U.S.C. 553(c). In this case, EPA determined that an informational meeting, rather than a public hearing, would more appropriately respond to the public's request for information and explanation regarding the basis for EPA's action than would a public hearing. EPA notes that, of the seven commenters submitting comments on the proposal after the original public comment period was reopened and the informational meeting held, only one person requested that EPA hold a public hearing before taking final action.

B. Monitoring

1. Location of the Wallula Monitoring Site

Many commenters, including Ecology, commented that the Wallula PM–10 monitoring site is not properly located and does not meet siting criteria. A primary concern noted by many commenters was that there is no year-round vegetative ground cover near the monitor to keep the impact of wind blown dust to a minimum.

EPA's monitoring criteria are specified in 40 CFR 58, appendix D and appendix E (2000). Appendix D describes the monitoring objectives and general criteria for establishing the State and Local Air Monitoring Stations (SLAMS) network. Appendix E contains specific siting criteria for the placement of ambient air quality sampling probes and samplers for measuring air quality. As early as the mid 1980s, EPA evaluated the Wallula site and found that it met all of the EPA siting criteria. More recently, in response to concerns raised during the public comment period on this action, EPA again visited the Wallula monitoring site, reviewed the Federal siting criteria, and confirmed that the Wallula monitoring site meets the criteria in both appendices D and E of 40 CFR 58. See Memorandum from Steven K. Body to Files, ''Evaluation of the Wallula PM–10 Monitoring Site, Wallula, Washington,'' (January 11, 2001).

It is important to note that the criteria providing that monitoring sites should not be located in an unpaved area unless there is vegetative ground cover year round is stated as a ''should,'' and thus is a goal for consistency of data among monitoring sites across the country, but is not a requirement. See 40 CFR part 58, appendix E, section 8.4. In any event, although the Wallula monitoring site is located in an area of very fine soil that is easily entrained by wind, the surrounding area does have some limited natural vegetation of Russian Thistle, sage and grass providing some protection from wind erosion. Moreover, the soil and vegetation near the Wallula monitor is representative of large areas of the Wallula PM–10 nonattainment area and is not unique to the area surrounding the monitoring site. It is thus representative of population exposure in the area. Some areas near the Wallula monitoring site do not have any ground cover. In general, these areas are areas that are impacted by human (anthropogenic) activities, and include off-road motor vehicle tracks, the monitoring site service access road, a fertilizer composting facility, and a cattle feedlot. Thus, to the extent the monitor is impacted by windblown dust, the dust is attributable in part to human activities and therefore appropriately measured by the monitor.

Although Ecology has recently asserted that the Wallula monitor is not properly sited, Ecology has entered air quality data from the monitor into EPA's national air data base for more than a decade. By entering the data into this data base, Ecology certified that the data is valid data that meets Federal quality control/quality assurance requirements. See 40 CFR 58.35(d). Ecology used the data from the Wallula monitor in preparing a State Implementation Plan for the Wallula PM–10 nonattainment area, which it submitted to EPA in November 1991. See *State Implementation Plan for Particulate Matter in the Wallula Study Area* (November 1991) (1991 Wallula SIP). In addition, Ecology specifically stated in a 1993 letter to a local citizen that the monitor is in a good location. See Letter from Claude W. Sappington to Randy Buchanan, dated August 5, 1993. Finally, as recently as June 1998, Ecology included the Wallula monitor in its SLAMS network description for EPA approval.

2. Flying Ant Infestation

Several commenters stated that additional analysis of the filters that were collected on June 3, 1997, and July 23, 1999, should be conducted to determine the extent of filter contamination due to ''flying ant infestations.'' These commenters asserted that there was a correlation between flying ant infestations and the days on which these exceedances were recorded at the Wallula monitoring site. According to the commenters, additional analysis could show that the data was contaminated and should be invalidated.

In response to these concerns, Ecology's Manchester Laboratory, in cooperation with Bacon Donaldson Laboratory in Richmond, British Columbia, conducted additional analysis of the filter samples collected on July 3, 1997, and June 23, 1999, to determine if the filter samples had been contaminated by swarms of flying ants on those days. According to Ecology, the filters were examined using light microscopy and scanning electron microscopy (SEM). The light microscopy found possible insect parts. The more definitive SEM found no obvious insect fragments. Most of the particles on the filters consisted of small mineral grains or clumps of small mineral grains. Pollen grains were found scattered throughout as a minor fraction of the dust samples. Ecology has concluded, and EPA agrees, that filters for July 3, 1997, and June 23, 1999, were not compromised by contamination with insect fragments and are valid. See

Letter from Mary Burg, Washington Department of Ecology, to Donna Deneen, EPA, Region 10, dated December 27, 2000. Therefore, the concentrations of 210 μg/m³ and 297 μg/m³ stand as the PM–10 concentrations monitored in Wallula, Washington, for July 3, 1997, and June 23, 1999, respectively.

3. Purpose of the Monitor

Several commenters stated that the Wallula monitoring site was established as a special study site and should have been discontinued. The purpose for which the site was originally established is irrelevant, however, so long as the monitor meets Federal siting criteria. Even if the Wallula monitor was originally established as a special study site, Ecology has included the site in its statewide PM–10 SLAMS network and has submitted air quality data from the monitor to the national air data base for more than a decade. In short, regardless of the purpose or objective for which a monitoring site was established, if the site meets EPA siting criteria, meets quality assurance requirements, and reports valid data, that data can be used for determining compliance with the NAAQS.

C. Nonattainment Area Boundaries

Several commenters stated that the boundaries of the Wallula PM–10 nonattainment area are arbitrary because the boundaries were set as a 12 mile square box centered on the monitoring site, which includes portions of both Benton and Walla Walla County. These commenters asserted that the boundaries were not based on any evidence indicating sources from Benton County are causing or contributing to the nonattainment problem. Moreover, because Benton County has its own regulatory authority for air (the Benton Clean Air Authority or BCAA), whereas Walla Walla County does not and is subject to Ecology's jurisdiction, these commenters argue it is inappropriate for any portion of Benton County to be included in the nonattainment area.

The boundaries of the Wallula PM–10 nonattainment area were established based on information provided by Ecology to EPA in the late 1980s and early 1990s and a description of the nonattainment area was included in the 1991 Wallula SIP. The SIP states that ''A major area of concern is the Horse Heaven Hills, * * * a vast area of dry-land wheat farming.'' 1991 Wallula SIP, pg. 52. The Horse Heaven Hills area is located in Benton County across the Columbia River from the Wallula monitoring site and a portion of the area is included in the Wallula PM–10 nonattainment area. During the public comment period on the 1991 Wallula SIP at the state level, no one asserted that Benton County should be excluded from the nonattainment area. In fact, one commenter asserted that progressive tillage practices were needed on farms in the Horse Heaven Hills area because dust from that area blows into the Wallula area. 1991 Wallula SIP, appendix J, pg. 3. In responding to this comment, Ecology agreed that progressive farming practices may be needed in the Horse Heaven Hills area. 1991 Wallula SIP, appendix J, pg. 3.[1] Under section 107(d)(1) of the CAA, nonattainment areas are to include, not only areas that do not meet the NAAQS, but also areas that contribute to ambient air quality in a nearby area that does not meet the NAAQS. The available technical information indicates that emissions from portions of Benton County may cause or contribute to NAAQS violations in Walla Walla County. Although the commenters suggest that sources from Benton County are not causing or contributing to the nonattainment problem in Walla Walla County, they provided no technical information to support this position.

It is true that Benton County has a local air pollution control authority with primary planning responsibilities for air quality in the County, whereas Walla Walla County does not, and Ecology therefore has the primary planning responsibilities for Walla Walla County. This fact does not, however, support the exclusion of Benton County from the nonattainment area, especially in light of available information showing that sources in portions of Benton County may cause or contribute to PM–10 NAAQS violations in Walla Walla County. Indeed, there are many other examples of nonattainment areas where more than one air planning authority has jurisdiction. See, e.g., 40 CFR 81.305 (PM–10 for Searles Valley planning area in California); 81.318 (ozone for Louisville in Kentucky); 81.331 (New York City metropolitan area in New York, New Jersey, and Connecticut). Indeed, because local air authorities in Washington do not have jurisdiction over pulp and paper mills and aluminum plants, it is often the case that Ecology will have primary regulatory authority over some sources in a nonattainment area and a local air authority will have primary regulatory authority over other sources in the nonattainment area. Coordination between Ecology and the local air pollution control authority with jurisdiction over Benton County was required for the development of the 1991 Wallula SIP and coordination between Ecology and BCAA will continue to be required in future planning efforts as well.

D. Classification

1. Considerations in Classification

Many commenters stated that the proposed reclassification of the Wallula PM–10 nonattainment area is not appropriate and not the best way to address potential air problems in the area for a variety of reasons. Some commenters stated that EPA should not take action because the exceedances are caused by wind blown dust, not human actions, and that EPA must first determine the cause of the exceedances before finding the Wallula area has not attained the PM–10 standards. Others raised concerns with the economic impact of a serious designation on the area's economic development and with Ecology's limited resources to address air quality issues throughout the State of Washington. Many commenters stated that EPA should use its discretion to avoid reclassifying the area to serious. Several noted that the Wallula area is sparsely populated.

The Wallula area has been designated nonattainment for PM–10 and classified as a moderate PM–10 nonattainment area since 1990, with an original attainment date of December 31, 1994. This attainment date was later extended to December 31, 1997. Pursuant to sections 179(c)(1) and 188(b)(2) of the CAA, EPA has the responsibility to determine, within six months of the applicable attainment date, whether PM–10 nonattainment areas attained the PM–10 NAAQS by the attainment date. If EPA determines that an area is not in attainment of the PM–10 NAAQS after the attainment date, ''the area shall be reclassified by operation of law as a Serious Area.'' CAA section 188(a)(2)(A). Therefore, once EPA makes a finding of nonattainment after the attainment date, reclassification to serious occurs by operation of law, without further action by EPA. EPA's discretion in this regard is constrained by the requirements of the Clean Air Act.

Findings of attainment or nonattainment under section 179(c)(1) of the Act are to be based upon an area's

[1] EPA also notes that, when EPA proposed action on the 1991 Wallula SIP, no one commented that the boundaries of the nonattainment area were improper. *See* 60 FR 63019 (December 8, 1995) (proposal); 62 FR 3800, 3802 (January 27, 1997) (noting that EPA received no public comments on its proposal).

''air quality as of the attainment date.'' CAA section 188(b)(2) is consistent with this requirement. With two exceptions discussed below, the cause of the exceedances is not relevant to the determination of whether air quality in an area is meeting the PM–10 NAAQS. Similarly, factors such as the economic impact of a reclassification, the number of people living in the nonattainment area, the planning authority's resources needed to address a serious designation, whether the moderate area SIP is being implemented, or the best means of controlling the sources of PM–10 emissions are not relevant to the determination of whether air quality in a nonattainment area meets air quality standards. Under the statutory scheme enacted by Congress, these factors may to some extent be considered by authorities during the process of planning how to bring an area into attainment, but Congress has not included them as appropriate for consideration in determining whether the air quality of an area is meeting Federal standards.

There are two circumstances in which the cause of an exceedance is an appropriate consideration in determining the air quality of an area. First, section 188(f) of the Clean Air Act gives EPA authority to waive a specific date for attainment of the standards where EPA makes certain findings regarding the relative impact on air quality of anthropogenic sources of PM–10 (resulting from human activities) versus nonanthropogenic sources of PM–10 (activities where the human role in the cause of such emissions is highly attenuated). As discussed in section II.E below, the Wallula area does not qualify for a permanent waiver of the attainment date. Second, under section 107(d)(4)(B)(ii) of the CAA and 40 CFR part 50, appendix K, section 2.4, specific exceedances due to uncontrollable natural events may be discounted or excluded entirely from decisions regarding an area's air quality status. See also Memorandum from EPA's Assistant Administrator for Air and Radiation to EPA Regional Air Directors entitled ''Areas Affected by Natural Events,'' dated May 30, 1996 (EPA's Natural Events Policy). As discussed in section II.F. below, even if some of the data from the Wallula monitoring site are considered uncontrollable natural events and excluded from consideration in determining the air quality status of the area, the remaining data still show that the Wallula area has not attained the PM–10 NAAQS.

EPA agrees with the commenters that additional evaluation of the data and cause of the high PM–10 readings in the Wallula area would help to better identify the sources and activities resulting in the high PM–10 levels recorded on the Wallula monitor. This information would in turn assist in developing a control strategy that would bring the Wallula area into attainment with the PM–10 NAAQS as expeditiously as possible and with the best use of limited resources. EPA encourages Ecology to work with BCAA, local government, PM–10 sources, and the public in the Wallula area to conduct such evaluation.

2. Data After December 1997

One commenter stated that EPA's determination that the Wallula area failed to attain the PM–10 NAAQS should not be based on data collected after the attainment date of December 31, 1997. In the case of Wallula with an attainment date of December 31, 1997, EPA first reviewed data for calendar years 1995, 1996, and 1997. During that period, there were two recorded exceedances, one on June 21, 1997, and one on July 3, 1997. As discussed in more detail in section II.F below, although Ecology has claimed that the June 21, 1997, exceedance was due to a natural event and should not be considered in an attainment determination, Ecology has made no such claim for the exceedance on July 3, 1997. Because the Wallula monitor is scheduled to sample once every six days, each measured exceedance is generally counted as six expected exceedances and represents a violation of the 24-hour PM–10 standard. Thus, the data shows that, even if only the data available on or before the attainment date of December 31, 1997, is considered and Ecology's natural events flagging is accepted, the Wallula area was still not in attainment of the 24-hour PM–10 NAAQS as of the attainment date. EPA disagrees, however, that data collected after the attainment date of December 31, 1997, is not relevant to EPA's decision. The exceedances occurring after the attainment date provide confirmation that the Wallula area has not attained the 24-hour PM–10 standard.

3. Kennewick Area

Several commenters stated that EPA used its discretion in the case of the Kennewick/Richland/Pasco Tri-Cities area in neighboring Benton and Franklin Counties to designate the area as ''unclassifiable'' because of the occurrence of natural events similar to those that occur in the Wallula area. These commenters urged EPA to do the same for the Wallula area.

As noted above, the Wallula area has been designated nonattainment for PM–10 and classified as moderate since 1990. Pursuant to sections 179(c)(1) and 188(b)(2) of the CAA, EPA is required to determine, within six months of the applicable attainment date, whether PM–10 nonattainment areas attained the PM–10 NAAQS by the attainment date. If EPA determines that an area is not in attainment of the PM–10 NAAQS after the attainment date, ''the area shall be reclassified by operation of law as a Serious Area.'' See CAA section 188(a)(2)(A).

In contrast, the Kennewick/Richland/Pasco Tri-Cities area was designated unclassifiable under the Clean Air Act of 1990. As a result, CAA section 107(d)(3)(B) (instead of sections 179(c)(1) and 188(b)(2)) applies to the area. Section 107(d)(3)(B) allows the EPA to consider air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate in determining whether an area's designation should be revised. EPA used this statutory discretion to use a different approach in the case of the Kennewick/Richland/Pasco Tri-Cities area. EPA does not have discretion under the Clean Air Act to designate the Wallula PM–10 nonattainment area as ''unclassifiable'' for PM–10. Section 107(d)(3)(F) of the Act expressly states that, ''The Administrator shall not promulgate any redesignation of any area (or portion thereof) from nonattainment to unclassifiable.''

E. Waiver

Several commenters stated that Wallula should receive a permanent waiver of the attainment date under section 188(f) of the CAA due to the significant contribution of nonanthropogenic sources. These commenters stated that identifying and evaluating the relative contributions of anthropogenic and nonanthropogenic sources to the PM–10 exceedances was a primary objective of the Columbia Plateau project and that EPA cannot find the Wallula area has not attained the PM–10 NAAQS until EPA determines that windblown dust was not significantly contributing to the measured 1997 PM–10 concentrations.

Congress recognized that there may be areas where the NAAQS may never be attained because of PM–10 emissions from nonanthropogenic sources, and that the imposition in such areas of certain state planning requirements may not be justified. Therefore, under section 188(f) of the Act, Congress provided a means for EPA to waive a specific date for attainment and certain

control and planning requirements when certain conditions are met in the nonattainment area. Section 188(f) provides two types of waivers. First, EPA may, on a case-by-case basis, waive any PM–10 nonattainment planning requirement applicable to any serious nonattainment area where EPA determines that anthropogenic sources of PM–10 do not contribute significantly to violation of the standards in the area. Second, EPA may waive a specific date for attainment of the standards where EPA determines that nonanthropogenic sources of PM–10 contribute significantly to the violation of the standards in the area. Thus, section 188(f) contains two different legal tests. The first test applies to a waiver of the serious area requirements and requires that EPA determine that anthropogenic sources do not contribute significantly before EPA grants such a waiver. The second test applies to a waiver of an area's attainment date and requires that EPA determine that nonanthropogenic sources contribute significantly before waiving the attainment date. The first test is more stringent than the second.

EPA has issued guidance addressing implementation of section 188(f) and reconciling the two legal tests set out in that provision and cited above. See 59 FR 41998 (August 16, 1994) (''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'', referred to hereafter as ''Serious Area Guidance''). In particular, EPA noted that the disparity between the legal tests set out in section 188(f) could lead to an absurd result. If, for example, a moderate area was granted a permanent waiver because nonanthropogenic sources contribute significantly to violations of the PM–10 NAAQS, the attainment date for the area would be vacated. Therefore, the moderate area would not be subject to reclassification under section 188(b) because there simply would be no attainment date that the area cannot practicably meet or that the area fails to meet. The result would be that a moderate area would be effectively relieved from the serious area requirements without having met the more stringent test that Congress expressly required to be met as a prerequisite to a waiver of such requirements in the first sentence of section 188(f)—a determination that anthropogenic sources of PM–10 do not contribute significantly to violation of the PM–10 NAAQS. In such an event, the more stringent test for determining whether to waive serious area requirements would be rendered meaningless.

To avoid this absurd result and only grant a waiver of the serious area requirements consistent with the legal standard set out in the Act, EPA has construed section 188(f) to provide that a moderate area may only qualify for an attainment date waiver if it also qualifies for a waiver of the serious area requirements under the first sentence of section 188(f). Therefore, EPA must determine that anthropogenic sources in the area do not contribute significantly to the violation of the PM–10 NAAQS, and that the serious area requirements should be waived, before EPA can grant an attainment date waiver for a moderate area. If such a determination is made, then the attainment date may be waived and the area would not be reclassified.[2] See 59 FR at 42005; 58 FR 18190, 18192 (April 8, 1993) (proposal to grant a waiver of the attainment date for Anthony, New Mexico).

In the Serious Area Guidance, EPA set forth threshold levels for determining whether areas qualify for waivers under section 188(f). Where emissions from all anthropogenic sources as a whole contribute less than or equal to 5 $\mu g/m^3$ to 24-hour average design concentrations and less than or equal to 1 $\mu g/m^3$ to annual mean design concentrations in a nonattainment area, after all reasonably available control measures (RACM) have been implemented,[3] EPA will generally regard such contributions as insignificant for purposes of waiving requirements applicable to serious PM–10 nonattainment areas pursuant to section 188(f). In addition, if an area meeting this test has not yet been reclassified as serious and the area would qualify under this test for a waiver of certain serious area requirements as deemed appropriate by EPA, then EPA will generally not require reclassification, since that action would have no practical effect. In contrast, if the contribution of anthropogenic emissions to the 24-hour design concentration exceeds 5 $\mu g/^3$, or if the contribution to the annual design concentration exceeds 1 $\mu g/^3$, even after the application of all RACM, then the area should be reclassified as serious, and serious area requirements, including best available control measures (BACM), should be implemented. See 59 FR at 42004–42005; 58 FR 47383 (September 9, 1993) (final action granting waiver of the attainment date for Anthony, New Mexico). If evidence in a given nonattainment area suggests that anthropogenic source contributions are relatively small but not less than 5 $\mu g/m^3$, then EPA will review the situation on a case-by-case basis taking into account relevant information such as the relative contribution of nonanthropogenic emissions/anthropogenic emissions and the effects of applying additional controls to both types of sources.

In the Serious Area Guidance, EPA also discussed temporary waivers of the attainment date for moderate areas. In cases where preliminary data (emission inventory, filter analysis, etc.) persuasively indicate that anthropogenic emissions may be insignificant and that nonanthropogenic emissions may be significant in an area, but such data are not decisive, then EPA has stated it will consider granting a temporary or conditional waiver of the moderate area attainment date for no more than three years to allow further evaluation of the situation. *See* 59 FR at 42005–42006. In the case of Wallula, EPA granted a temporary waiver to extend the attainment date for Wallula to December 31, 1997, based on preliminary information that nonanthropogenic sources of PM–10 may be significant in the Wallula area. *See* 60 FR 63109 (December 6, 1995)(proposed action); 62 FR 3800 (January 27, 1997) (final action). The temporary waiver was intended to provide Ecology time to evaluate further the Wallula nonattainment area and to determine the significance of the anthropogenic and nonanthropogenic sources impacting the area. Once these activities were complete or the temporary waiver expired, EPA stated it would make a decision on whether the area was eligible for a permanent waiver under section 188(f) of the CAA or whether the area had attained the 24-hour PM–10 standard by the extended attainment date. *See* 62 FR at 3802.

Because Wallula is currently classified as a moderate PM–10 nonattainment area, EPA must find that

[2] These special considerations would not be relevant where EPA is determining whether to waive the attainment date for a serious area (rather than a moderate area) since waiving the date in such circumstances would not as a matter of course have the effect of relieving the area of the serious area requirements. An area already reclassified as serious could qualify for an attainment date waiver solely by showing that nonanthropogenic emissions contribute significantly to the nonattainment problem.

[3] Implementation of RACM (including reasonably available control technology (RACT)) is required in all moderate PM–10 nonattainment areas and that requirement is not waived under the provisions of section 188(f). Therefore, the issue is whether anthropogenic sources still contribute significantly to violations of the NAAQS in an area, after implementing RACM.

anthropogenic sources in the area do not contribute significantly to violation of the PM–10 NAAQS before EPA will grant a permanent waiver of the moderate area attainment date for Wallula, which in turn would forestall reclassification of the area to serious. Although more than three years have elapsed since expiration of Wallula's temporary waiver, Ecology has not submitted a request for a permanent waiver under section 188(f) of the CAA. Nor has Ecology submitted any information to support a finding that anthropogenic sources in the area do not contribute significantly to violation of the PM–10 NAAQS in the Wallula PM–10 nonattainment area.

In addition, information available to EPA does not support such a finding. First, a review of the location of the monitor itself strongly suggests that the impact of anthropogenic sources is not insignificant. Within a two kilometer radius of the Wallula monitor lie a pulp mill, a feed lot with capacity for over sixty thousand cattle, a beef processor, a composting facility, a tree farm, and a highway, which collectively emit more than 631 tons of PM–10 each year. Second, based on the 1991 Wallula SIP, although 95% of the PM–10 emissions in the nonattainment area are classified by the State as ''wind blown dust,'' the State characterizes the emissions as ''agricultural wind blown dust,'' that is, dust from crop land subject to agricultural practices. The SIP also states that ''A major source of windblown dust in the area are agricultural fields lying fallow or bare.'' Of the approximately 92,160 acres in the Wallula PM–10 nonattainment area, approximately 41,420 acres are under cultivation for wheat, corn, or alfalfa.

Ecology and EPA have participated in a research project to better understand the causes and impacts of wind erosion and windblown dust on the Columbia Plateau, which includes the Wallula area, and to develop strategies for minimizing impacts. This project is known as the Columbia Plateau Particulate Matter Research Project (the Columbia Plateau Project). The Columbia Plateau Project supports the conclusion that the ambient impact of anthropogenic sources of PM–10 in the Wallula area is not insignificant. As part of the project, researchers specifically evaluated the question of whether the air is significantly more dusty in the Columbia Plateau since the beginning of systematic farming (an anthropogenic activity), about 120 years ago. Beginning in about the 1880s, the record shows there is a marked increase in the mineral content of the sediment, a change that has remained consistent to the present. The researchers attributed this increase to an increase in dust deposition. The report further states that specific characteristics of the dust (i.e., the mean diameter and the amount of PM–10) corroborate the assumption that agricultural activity led to this increase. *See Columbia Plateau Particulate Matter Research Project, Final Report: Executive Summary* (March 1998). Moreover, the overall tenor of the project focuses on the impacts of the wind on farming and best management practices for reducing those impacts. In fact, a publication published by the Columbia Plateau Project, ''Farming with the Wind,'' maintains that, in the Columbia Plateau, fine particulates in the air are usually attributed to wind erosion of field soils. *See Farming with the Wind* (1998). Here and throughout the document, this publication makes clear the connection between wind and farming and, in promoting best management practices, suggests that agricultural activities exacerbate the effects of the wind. For these reasons we believe that anthropogenic sources of PM–10 can not be characterized as contributing only insignificantly to violation of the 24-hour PM–10 standard in the Wallula area.

The information regarding the mix of anthropogenic and nonanthropogenic sources in the Wallula area is in marked contrast to the information provided by New Mexico, in seeking a permanent waiver of the moderate attainment date under section 188(f) for Anthony, New Mexico. In that case, New Mexico submitted information showing that, in the Anthony nonattainment area, there are no point sources emissions and only 37.4 tons/year of PM–10 emissions from area sources (mostly roads) and that, in the county in which the nonattainment area is located, there are 72.1 tons/year of PM–10 emissions from point sources. In contrast, there are more than 500,000 tons/year of nonanthropogenic emissions from the desert and well-maintained rangeland in the county which could not be feasibly controlled. EPA noted that no agricultural tilling takes place in the Anthony nonattainment area and most farmlands in the surrounding county are located along the Rio Grange flood plain in an area containing more rich, well developed soil. New Mexico also showed that RACM and RACT had been implemented for all anthropogenic sources of PM–10 in the nonattainment area and the surrounding county. Based on the emissions inventory information, dispersion modeling, filter analysis, and other information provided by New Mexico, EPA agreed that point source and all other anthropogenic sources in the nonattainment area and the surrounding county were insignificant, and that nonanthropogenic emissions from the surrounding desert and rangelands were overwhelmingly the dominant sources of PM–10 ambient concentrations in the Anthony PM–10 nonattainment area. Therefore, EPA waived the moderate attainment date for the Anthony PM–10 nonattainment area pursuant to section 188(f) of the CAA. See 58 FR at 18192–18194. EPA does not believe that a waiver of the moderate area attainment date is appropriate in the case of the Wallula PM–10 nonattainment area because it has not been established that anthropogenic sources of PM–10 in the area contribute only insignificantly to violation of the PM–10 NAAQS.

F. Natural Events

1. Wallula Exceedances as Natural Events

Numerous commenters stated that the exceedances of the PM–10 NAAQS at the Wallula monitoring site are caused by windblown dust, which is considered a ''natural event,'' and should be excluded in determining the attainment status of the Wallula area. In addition to the waiver provisions of section 188(f) of the CAA, the Clean Air Act provides for the exclusion of certain data attributable to uncontrollable natural events from attainment determinations. See CAA section 107(d)(4)(B)(ii) and 40 CFR part 50, appendix K, section 2.4. Appendix K provides, in part, that measured exceedances of the PM–10 NAAQS in an area may be discounted from determinations regarding nonattainment status if the data are shown to be influenced by uncontrollable events caused by natural sources of particulate matter. EPA has issued guidance addressing three categories of natural events: (1) Volcanic and seismic activity; (2) wildland fires; and (3) high wind events. See Memorandum from EPA's Assistant Administrator for Air and Radiation to EPA Regional Air Directors entitled ''Areas Affected by Natural Events,'' (May 30, 1996) (Natural Events Policy).

There are important distinctions between waivers under section 188(f) of the CAA and the exclusion of exceedances due to uncontrollable natural events from attainment determinations under section 107(d)(4)(B)(ii) of the CAA and 40 CFR part 50, appendix K, section 2.4, although there is some overlap. In the case of a waiver under section 188(f) of the CAA, a determination is made that

the area cannot attain the 24-hour PM–10 standard because of the ambient impact of nonanthropogenic sources of PM–10. The focus is on the source of the particulate—anthropogenic or nonanthropogenic. In the case of natural event determinations under 107(d)(4)(B)(ii) of the CAA and 40 CFR part 50, appendix K, section 2.4, the focus is on a time-limited event that causes elevated PM–10 levels on a specific day or days: a volcanic or seismic event, a wildfire, or high winds. The source of the PM–10 can be anthropogenic or nonanthropogenic.

In the case of high winds, EPA has stated that it will consider ambient PM–10 concentrations due to dust raised by unusually high winds as due to uncontrollable natural events (and thus excludable from attainment determinations) if either (1) the dust originated from nonanthropogenic sources or (2) the dust originated from anthropogenic sources controlled with best available control measures (BACM). See Natural Events Policy, pg. 7. EPA's Natural Events Policy sets forth a process for declaring an exceedance as due to natural events and for documenting a natural events claim. If natural events cause ambient concentrations of PM–10 that exceed the NAAQS, the State is responsible for developing a Natural Events Action Plan (NEAP) to address future exceedances due to natural events, which includes commitments to: (1) establish public education and notification programs; (2) minimize public exposure to high concentrations of PM–10 due to future natural events; (3) abate or minimize contributing controllable sources of PM–10, which includes the application of BACM to any sources of soil that have been disturbed by anthropogenic activities; (4) identify, study, and implement practical mitigating measures as necessary; and (5) periodically reevaluate the NEAP. See Natural Events Policy, pp. 7–10.

With respect to a specific claim of natural event, when air quality data affected by a natural event are submitted for inclusion in the national air data base, the State should request that a flag be placed on the data to indicate that a natural event was involved and to submit documentation to support the flag. To support a natural event claim for high winds, the State is responsible for documenting, among other things: (1) a clear and causal relationship between the measured exceedance and the natural event; (2) that BACM were required for sources of anthropogenic dust and that the sources were in compliance at the time of the high wind event; and 3) that the documentation of natural events and their impact on air quality is available for public review. EPA is then to acknowledge receipt of the natural events documentation and confirm the flagging of the exceedance as a natural event.

In EPA's November 14, 2000, proposal finding that the Wallula area had not attained the 24-hour PM–10 standard as of the attainment date, EPA discussed four exceedances of the standard recorded at the Wallula monitor during calendar years 1995 through 1999:

Date	Wallula monitoring site
6/21/97	160 μg/m^3
7/03/97	210 μg/m^3
7/10/98	215 μg/m^3
6/23/99	297 μg/m^3

In addition, EPA has since learned that another exceedance of the 24-hour standard was recorded at the Wallula monitoring site on August 10, 2000, at a level of 215 μg/m^3. Because the Wallula monitor is scheduled to sample once every six days, each measured exceedance is generally counted as six expected exceedances.

As discussed in EPA's November 16, 2000, proposal, Ecology flagged the June 21, 1997, exceedance in the national air data base as an exceedance caused by high winds under EPA's Natural Events Policy, although it is unclear if EPA received Ecology's documentation of this exceedance as a natural event before the summer of 2000. 65 FR at 69276. In addition, Ecology originally flagged the July 10, 1998, exceedance as due to a natural, high wind event. In response to a specific inquiry from EPA in January 2000, however, Ecology notified EPA that, after further investigation, it did not consider the July 10, 1998, exceedance to be due to high winds and that it would be removing the flag. None of the other exceedances were flagged by Ecology when the data was entered into the national air data base.

In response to EPA's November 16, 2000, proposal to find that the Wallula area had not attained the PM–10 NAAQS as of the attainment date, Ecology again reviewed the meteorology for the July 10, 1998, exceedance and now asserts that, despite its earlier conclusion, the July 10, 1998, exceedance was in fact attributable to a natural, high wind event and should not be considered in determining the attainment status of the Wallula PM–10 nonattainment area. Ecology also submitted information to show that the June 23, 1999, exceedance was due to a natural, high wind event. Ecology has not flagged or submitted information to show that a natural, high wind event caused either the July 3, 1997, exceedance or the more recent August 10, 2000, exceedance. Because of the one-in-every-six day sampling schedule at the Wallula monitor, either one of these exceedances precludes a finding that the Wallula area has attained the 24-hour PM–10 standard. The July 3, 1997, exceedance alone is sufficient to establish that the Wallula area had not attained the 24-hour PM–10 standard by the December 31, 1997, attainment date. The August 10, 2000, exceedance establishes that the Wallula area has not attained the 24-hour PM-standard as of the end of the most recent three-year period (1998 through 2000).

EPA is still reviewing the documentation submitted to support Ecology's flagging of the June 21, 1997, July 10, 1998, and June 23, 1999, exceedances as attributable to uncontrollable natural events (high winds). Once EPA has completed its review, EPA will notify Ecology regarding whether EPA will confirm the flagging of the June 21, 1997, July 10, 1998, and June 23, 1999, exceedances as due to natural events.

Although EPA is not determining in this action whether the events were properly flagged as natural, high wind events and qualify for exclusion from consideration under EPA's Natural Events Policy, EPA does have preliminary concerns with the documentation submitted by Ecology to support these natural event claims. First, Ecology has not yet identified threshold wind conditions for the Wallula area which would be expected to overcome BACM controls and entrain dust. In addition, Ecology has only provided meteorology for the days on which it has claimed the occurrence of natural events, and has not provided a similar meteorological analysis showing wind conditions were below a threshold on days when measured values were low. The Natural Events Action Plan submitted by Ecology in March 1998 for the Columbia Plateau, which includes the Wallula area, indicates spring planting and late summer/fall harvest are the times that agricultural soil is most exposed and subject to wind erosion. See *Natural Events Action Plan for High Wind Events in the Columbia Plateau* (March 1998) (Columbia Plateau NEAP). These time frames do not coincide with the measured exceedances recorded on the Wallula monitor in June through August, a time when vegetative cover (i.e., crops) would be expected to be the highest for providing protection of the soil from wind erosion.

Ecology has also not provided information to show that BACM has been implemented on all anthropogenic sources of PM–10 that contributed to the exceedances at the Wallula monitoring site and that such sources were in compliance with BACM at the time of the exceedances. In the Columbia Plateau NEAP, Ecology states that BACM will be applied to windblown dust from anthropogenic sources to mitigate the impact of high wind events and states that a time line for identifying and implementing BACM will be developed by May 1998. Columbia Plateau NEAP, pp. 11 and 16. Although more than two and one half years have elapsed since Ecology submitted its NEAP, EPA has received no information regarding implementation of BACM in the Wallula area except for the State's assertion that the Food Securities Act of 1996 constitutes implementation of BACM on agricultural lands. There is no discussion of Ecology's commitment in its NEAP to study and develop additional BACM for agricultural sources on the Columbia Plateau in cooperation with Washington State University and U.S. Department of Agriculture. Ecology also has not provided documentation of implementation of BACM for the other sources of dust that are near the Wallula monitoring site, such as the cattle feedlot, the fertilizer composting facility, and off-road recreational vehicle activity. Without documentation that BACM was in effect on these sources at the time of each event, EPA cannot conclude that the wind conditions were sufficient to overcome BACM controls. Finally, EPA does not have evidence of Ecology's public information and outreach efforts with respect to the exceedances recorded in the Wallula area that are claimed to be due to natural events. During the December 15, 2000, informational meeting held in Walla Walla to discuss EPA's proposed finding for the Wallula area, comments by several attendees indicated that there had not been wide-spread knowledge of the exceedances.

2. Comparison with the Kennewick Monitoring Site

Several commenters noted that during the period from 1997 to the present when the Wallula PM–10 monitoring site recorded five exceedances of the 24-hour PM–10 standard, the Kennewick monitoring site also recorded five exceedances, four of which qualified as ''natural events due to high winds'' under EPA's Natural Event's Policy. These commenters state that the Wallula exceedances should also be classified as natural events because the Wallula and Kennewick monitoring sites are less than 20 miles apart.

As discussed above in this section II.F, even if some of the exceedances recorded on the Wallula monitor can be characterized as natural events, two of them have not been flagged as natural events. Because of the sampling frequency at the Wallula monitor, either one of these exceedances requires a finding that the Wallula area has not attained the 24-hour PM–10 standard.

In any event, each exceedance of the 24-hour PM–10 standard and the documentation to support it needs to be assessed independently based on the criteria outlined in EPA's Natural Events Policy to determine whether the exceedances can be attributable to a natural event and thus qualify for exclusion from consideration in attainment determinations for the area. EPA notes that it has confirmed only three of the flags—the exceedances recorded on March 30, 1997, September 23, 1999, and September 25, 1999. Moreover, as shown in the summary table below, the exceedances recorded on the Kennewick monitor since 1997 have not been recorded on the same days as the exceedances recorded on the Wallula monitor.

Year	Kennewick monitoring site	Wallula monitoring site
1997	165 μg/m³ (March 30)**	160 μg/m³ (June 21)*
		210 μg/m³ (July 3)
1998	no exceedances	215 μg/m³ (July 10)*
1999	183 μg/m³ (Sept 23)**	297 μg/m³ (July 23)*
	306 μg/m³ (Sept 25)**	
2000	227 μg/m³ (June 21)	215 μg/m³ (Aug 10)
	230 μg/³ (July 31)	

* Indicates Ecology has flagged the data due to a natural event.
** Indicates EPA has confirmed the flag.

The fact that there is no correlation between the occurrence of PM–10 exceedances at the two monitors suggests that the mix of PM–10 sources that contribute to PM–10 concentrations above the NAAQS, as well as any natural events that may impact those PM–10 sources, appear to be different in the Kennewick area and the Wallula area.

A review of meteorological data for July 10, 1998, clearly demonstrates that wind conditions can be significantly different in the Kennewick area as compared to the Wallula area. An article in the Tri-City Herald on July 11, 1998, reported that a thunder storm with peak winds of 66 to 69 miles per hour and heavy rain passed through the Kennewick area on July 10 causing significant damage. The Kennewick monitor reported a PM–10 concentration of 45 μg/m³ for July 10, 1998, whereas the Wallula monitor reported a PM–10 value of 215 μg/m³. The article also notes that Prosser police (Prosser is located approximately 30 miles east of Kennewick) and Hermiston police (Hermiston, Oregon is located approximately 30 miles south of Kennewick) reported relatively calm weather at the time of the storm. Wind measured at Wallula for July 10, 1998, had an average speed of 7.7 miles per hour, with a one-hour maximum wind measurement of 26 miles per hour. Thus, it is not possible to conclude that, because PM–10 exceedances during the period from 1997 through 2000 in the Kennewick area were caused by natural events, exceedances recorded during the same period but on different days at the Wallula monitoring site were also caused by natural events.

G. Settlement Agreement

A few comments raised issues relating to a Consent Decree EPA entered into in response to a law suit alleging that, among other things, EPA had failed to make a finding regarding whether the Wallula PM–10 nonattainment area had attained the PM–10 standards by the attainment date as provided in CAA section 188(b)(2). Under that Consent Decree, which was lodged with the court on January 12, 2001, EPA agreed to sign a notice on or before January 16, 2001, for publication in the **Federal Register** containing EPA's final determination regarding whether the Wallula PM–10 nonattainment area attained the NAAQS for PM–10 by the

applicable attainment date. The commenters requested a copy of the Consent Decree so that they could comment on the decree. The commenter also asserted that the Consent Decree incorrectly referred to Wallula as one of the ''Group 2 PM–10 nonattainment area,'' when in fact it was designated as a Group 1 PM–10 planning area after promulgation of the 1987 PM–10 NAAQS. The commenter suggested that EPA would delay taking action regarding whether the Wallula PM–10 area had attained the PM–10 standard if Wallula had been properly characterized as a Group 1 area in the Consent Decree.

EPA has provided a copy of the Consent Decree as requested by the commenter and a copy is in the docket. Pursuant to section 309(g) of the CAA, the Consent Decree will be subject to public notice and comment. EPA does not believe, however, the Consent Decree is relevant to the finding made by EPA in this action, because the Consent Decree only specified a time by which EPA was required to make a finding under CAA section 188(b)(2) with respect to the Wallula area, not the substance of the finding. In addition, although it is true that the Wallula PM–10 nonattainment area was identified as a ''Group 1 PM–10 planning area'' after promulgation of the 1987 PM–10 standards, the reference in the Consent Decree to ''Group 2 PM–10 nonattainment areas'' was not intended to refer to the planning areas for purposes of the 1987 PM–10 NAAQS but rather was a category created for purposes of the Consent Decree only.

III. SIP Requirements for Serious Areas

As stated above, EPA is finalizing its proposed action to find that the Wallula PM–10 nonattainment area failed to attain the PM–10 NAAQS by December 31, 1997, the CAA attainment date for the area. As a result, the Wallula area will be reclassified by operation of law as a serious PM–10 nonattainment area on the effective date of this final rule.

PM–10 nonattainment areas reclassified as serious under section 188(b)(2) of the CAA are required to submit, within 18 months of the area's reclassification, SIP revisions providing for the implementation of BACM no later than four years from the date of reclassification. The SIP also must contain, among other things, a demonstration that the implementation of BACM will provide for attainment of the PM–10 NAAQS no later than December 31, 2001.[4] In addition, the terms ''major source'' or ''major stationary source'' include any stationary source or group of stationary sources located within a contiguous area and under common control that emit, or have the potential to emit, at least 70 tons per year of PM–10. See CAA sections 188(c)(2) and 189(b).

EPA has issued specific guidance on developing serious area PM–10 SIP revisions in the Serious Area Guidance. See 59 FR 41998 (August 16, 1994). The serious area requirements are in addition to the moderate PM–10 nonattainment requirements of RACT/RACM.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), EPA is required to determine whether regulatory actions are significant and therefore should be subject to Office of Management and Budget (OMB) review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may ''have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities.''

The Agency has determined that the finding of failure to attain would result in none of the effects identified in section 3(f) of the Executive Order. Under section 188(b)(2) of the CAA, findings of failure to attain are based upon air quality considerations and the resulting reclassifications must occur by operation of law. They do not, in and of themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, findings of failure to attain and reclassification cannot be said to impose a materially adverse impact on State, local or tribal governments or communities.

B. Executive Order 13045

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. This action is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

C. Executive Order 13175

On November 6, 2000, the President issued Executive Order 13175 (65 FR 67249) entitled, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 took effect on January 6, 2001, and revokes Executive Order 13084 (Tribal Consultation) as of that date. EPA developed this final rule, however, during the period when Executive Order 13084 was in effect; thus, EPA addressed tribal considerations under 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 OMB, 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

[4] CAA sections 189(b)(1)(A), 188(e), and 188(f) authorize EPA to grant an extension of that deadline if certain conditions are met.

matters that significantly or uniquely affect their communities.

Today's finding of failure to attain 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 finding of failure to attain.

D. 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.

Findings of failure to attain and the resulting reclassification of nonattainment areas by operation of law under section 188(b)(2) of the CAA do not in and of themselves create any new requirements. Instead, this rulemaking only makes a factual determination, and does not directly regulate any entities. Therefore, pursuant to 5 U.S.C. 605(b), I certify that today's final action does not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

E. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), 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 the 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 believes, as discussed above, that the finding of failure to attain is a factual determination based upon air quality considerations and that the resulting reclassification of the area must occur by operation of law. Thus, the finding does not constitute a Federal mandate, as defined in section 101 of the UMRA, because it does not impose an enforceable duty on any entity.

F. Executive Order 13132

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 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 finding of failure to attain and the resulting reclassification of a nonattainment area by operation of law 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 this action does not, in-and-of-itself, impose any new requirements on any sectors of the economy, 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 these actions.

G. National Technology Transfer and Advancement Act

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub L. 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 action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

H. Submission to Congress and Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 10, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action may not be challenged later in proceedings to enforce its requirements. See CAA section 307(b)(2).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: January 16, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

Part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

1. The authority citation for Part 81 continues to read as follows:

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

2. In § 81.348, the table entitled ''Washington—PM–10'' is amended by removing the entry for ''Walla Walla County, Wallula'' and adding a new entry in its place for ''Walla Walla and Benton Counties'' to read as follows:

§ 81.348 Washington.

* * * * *

WASHINGTON—PM–10

Designated area	Designation		Classification	
	Date	Type	Date	Type
* * *	*	*	*	*
Walla Walla and Benton Counties				
Wallula:				
The area bounded on the south by a line from UTM coordinate 5099975mN, 362500mE, west to 5099975mN, 342500mE, thence north along a line to coordinate 5118600mN, 342500mE, thence east to 5118600mN, 362500mE, thence south to the beginning coordinate 5099975mN, 362500mE.	11/15/90	Nonattainment	3/12/01	Serious.

[FR Doc. 01–2171 Filed 2–8–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

46 CFR Parts 10, 15, and 67

49 CFR Part 40

49 CFR 571

RIN 2105–AC49, 2127–AH07; 2115–AF23; 2115–AF88

Procedures for Transportation Workplace Drug and Alcohol Testing Programs; Metric Conversion of Tire Standards; Licensing and Manning for Officers of Towing Vessels; Citizenship Standards for Vessel Ownership and Financing: Notice Concerning Review

AGENCIES: Office of the Secretary, Transportation, National Highway Traffic Safety Administration, and United States Coast Guard, DOT.

ACTION: Notice concerning review.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001, the Department has postponed for 60 days the effective dates of a number of final rules that were published before January 20, 2001, but have not yet gone into effect. This notice concerns the status of four regulations for which the effective dates were not postponed.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Office of General Counsel, Department of Transportation, 400 7th Street, SW., Washington, DC, 20590. Telephone 202–366–9310.

SUPPLEMENTARY INFORMATION: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001, the Department has postponed for 60 days the effective dates of a number of final rules that were published before January 20, 2001, but have not yet gone into effect. The four rules mentioned in this notice were published before January 20, 2000 and have not yet gone into effect. However, for the reasons stated below, we are not postponing their effective dates.

The Department published its new drug and alcohol testing regulation (49 CFR part 40) on December 19, 2000. A portion of this rulemaking went into effect on January 18, 2001, and it consequently is not subject to the withdrawal requirement of the Chief of Staff's memorandum. The remainder of this rule goes into effect August 1, 2001. The Department does not believe that it is necessary, in order to comply with the intent of the memorandum, to extend the effective date of the rule to a date 60 days after August 1. The time between now and August 1 affords ample opportunity for the Department to review the rule before it becomes effective. In addition, since the August 1 effective date was selected, in part, to coincide with the date on which use of a new Department of Health and Human Services drug test collection form becomes mandatory, postponing the effective date could lead to confusion and mistakes in the administration of drug tests.

The National Highway Traffic Safety Administration (NHTSA) rule on metric conversion of tire standards was published May 27, 1998. The rule converts English measurements in NHTSA rules concerning tire standards to metric measurements. Voluntary compliance was authorized upon publication. The final rule becomes effective May 27, 2003. Because of the very long period of time before this rule becomes effective, the Department does not believe that it is necessary, in order to comply with the intent of the memorandum, to extend the effective date of the rule to a date 60 days after May 27, 2003. The time between now and May 27, 2003, affords ample opportunity for the Department to review the rule before it becomes effective.

The United States Coast Guard (USCG) Interim Final Rule on licensing and manning for officers of towing vessels was published on November 19, 1999. The rule creates new licenses, with levels of qualification and enhanced training and operating experience requirements for these personnel. On October 27, 2000, the effective date of the rule was delayed until May 21, 2001, in order to allow time to issue guidance for new licenses and revised training criteria. Because of the period of time before this rule becomes effective, and the fact that the effective date has already been postponed beyond 60 days from today's date, the Department does not believe that it is necessary, in order to comply with the intent of the memorandum, to extend the effective date of the rule to a date 60 days after May 21, 2001.

The USCG rule on citizenship standards for vessel ownership and financing was issued on December 7, 2000, and becomes effective on October

1, 2001. Here again, there is a substantial period of time before this rule becomes effective, and the Department does not believe that it is necessary to extend the effective date of the rule further, in order to comply with the intent of the memorandum. The time between now and October 1, 2001, affords ample opportunity for the Department to review the rule before it becomes effective.

All of these rules will be subject to review by the Department on the same basis as the rules the effective dates of which were postponed pursuant to the Chief of Staff's memorandum.

Issued this 2nd day of February at Washington, DC.

Rosalind A. Knapp,

Acting General Counsel.

[FR Doc. 01–3399 Filed 2–8–01; 8:45 am]

BILLING CODE 4910–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 52 and 64

[CC Docket No. 92–105; FCC 00–256]

The Use of N11 Codes and Other Abbreviated Dialing Arrangements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Federal Communications Commission (FCC or Commission) granted petitions filed by the U.S. Department of Transportation (DOT), and by Information and Referral providers seeking nationwide assignment of abbreviated dialing codes. The assigned dialing codes will be used for access to traveler information services and for access to community information and referral services, respectively.

DATE: Effective February 9, 2001.

ADDRESSES: Federal Communications Commission, Secretary, 445 12th Street, SW, Room TW–B204F, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Cheryl Callahan at (202) 418–2320, fax (202) 418–2345, TTY (202) 418–0484, or *ccallaha@fcc.gov*. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, The Portals, 445 12th Street, SW., Suite 6–A320, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Third Report and Order and Order on Reconsideration in CC Docket No. 92–105, FCC 00–256 (Third Report and Order),* in the matter of the use of N11 Codes and other abbreviated dialing arrangements, adopted July 21, 2000, and released July 31, 2000. The full text of the item is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554, or copies may be purchased from the Commission's duplicating contractor, ITS, Inc., 445 12th Street, SW, Suite CY–B400, Washington, DC 20554, phone (202) 857–3800. This Order contains no new or modified information collections subject to the Paperwork Reduction Act of 1995, Public Law 104–13.

Synopsis of the Report and Order

1. N11 codes are abbreviated dialing arrangements that allow telephone users to connect with a particular node in the network by dialing only three digits. There are only eight possible N11 codes, making N11 codes among the scarcest of numbering resources under our jurisdiction. Of the eight N11 codes available, the Commission has already assigned two for nationwide use, and has been directed by Congress to assign another. In addition, three other N11 codes are widely used by carriers across the country, but have not been assigned by the Commission for such nationwide use. Thus, at this time, the 211 and 511 codes are the only two N11 codes that can be assigned and deployed immediately.

2. The network must be pre-programmed to translate the three-digit code into the appropriate seven or ten-digit telephone number and route the call accordingly. Among abbreviated dialing arrangements, ''N11'' codes are three-digit codes of which the first digit can be any digit other than 1 or 0, and the last two digits are both 1.

3. Prior to the 1996 Act, incumbent local exchange carriers (LECs), state commissions, Bellcore and the Commission performed the functions relating to numbering administration, including administration of abbreviated dialing codes. Section 251(e) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (1996 Act), gives the Commission exclusive jurisdiction over numbering administration, and over those portions of the North American Numbering Plan (NANP) that pertain to the United States. This section also provides that the Commission may delegate all or part of its numbering administration authority to state commissions or other entities. In 1992, the Commission adopted a *Notice of Proposed Rulemaking (N11 NPRM),* 7 FCC Rcd 3004, proposing that incumbent local exchange carriers be required to provide abbreviated dialing arrangements. Subsequent to the N11 NPRM, various parties asked the Commission to designate N11 codes to facilitate network access to Telecommunications Relay Service (TRS) for individuals with hearing or speech disabilities, to federal government services, to state government services, and to non-emergency police services.

4. In 1997, the Commission released the *N11 First Report and Order and FNPRM,* 12 FCC Rcd 5572, in which it authorized the incumbent LECs, states, and Bellcore to continue to perform N11 code administrative functions that they performed prior to the time of enactment of the 1996 Act. In the *N11 First Report and Order and FNPRM,* the Commission assigned 311 on a nationwide basis for non-emergency police services, but allowed existing non-compliant uses of 311 to continue until the local government in that area was prepared to activate a non-emergency police 311 service. In addition, at the discretion of local jurisdictions, the Commission allowed 311 to be used to access other government services, but declined to assign a separate N11 for this purpose. The Commission also granted the request for an N11 code to reach Telecommunications Relay Services (TRS), assigning 711 nationwide for this use. Finally, the Commission declined to: (1) Mandate that N11 numbers be made available for access to information services; (2) mandate that an N11 code be designated for access to federal government agencies; or (3) disturb the current uses of 911, 411, 611 and 811 for access to emergency services, directory assistance, and LEC repair and business offices, respectively.

5. The Commission in the *N11 First Report and Order and FNRPM* also requested comment on a number of issues. Specifically, the issues to be addressed related to deployment of TRS, the sale or transfer of N11 codes, and administration of N11 codes. Subsequently, several parties filed requests for reconsideration and/or clarification of certain matters discussed in the *N11 First Report and Order and FNPRM.* Specifically, the International Association of Fire Chiefs and International Municipal Signal Association (IAFC Petitioners) opposed any expanded use of N11 codes for non-emergency and commercial uses. BellSouth sought reconsideration and/or clarification regarding the status of non-conforming uses of N11 service codes,

including 311 and 711, the ''six-month'' implementation requirement for 311, and requirements placed on CMRS providers with respect to handling 311 calls. It also sought clarification regarding incumbent LECs' obligations to provide 611 and 811 for access to repair and business offices.

6. The U.S. DOT and the Information and Referral Petitioners requested assignment of N11 codes to provide gateway access to travel information services and community service organizations, respectively. The U.S. DOT does not request a specific N11 dialing code, whereas the Information and Referral Petitioners seek assignment of 211, specifically, for their proposal. Both petitioners contend that the provision of services using toll-free numbers or local numbers is not only inefficient, but limits the widespread use of travel information or community services information, and also limits the accessibility to these services. Both proposals enjoy widespread support from a variety of organizations, state and local governments, and other interested parties.

7. This *Third Report and Order* resolves issues raised in the petitions for reconsideration that relate to the manner in which N11 codes are assigned, and grants the two petitions for assignment of N11 codes filed by the U.S. DOT and the Information and Referral Petitioners. Issues raised in the *N11 First Report and Order* regarding the implementation of 711 are being addressed in the *Second Report and Order.* 15 FCC Rcd 15188. Similarly, the Commission will address matters dealing with designation of 911 as the national emergency number throughout the United States in a separate order.

8. In the *Third Report and Order* the Commission assigns abbreviated dialing code 511 to be used for access to traveler information services, and assign the abbreviated dialing code 211 to be used for access to community information and referral services. The Commission believes that these two proposals meet the ''pubic interest'' standards for assignment of N11 codes established in the *N11 First Report and Order,* and this need is demonstrated by the wide support for the two petitions. Both petitioners propose to provide access to their services without an additional charge to callers, and each has demonstrated that its service provides a substantial public benefit. The Commission denied petitions for reconsideration of the *N11 First Report and Order* filed by the International Association of Fire Chiefs and International Municipal Signal Association (IAFC Petitioners) and BellSouth. The Commission also resolved issues raised in the *N11 FNPRM,* and concluded that the sale or transfer of N11 codes through private transactions should not be allowed at this time. The Commission also concluded that the Commission should continue to make assignments of N11 codes, rather than delegate this authority to the North American Numbering Plan Administrator (NANPA) or any other entity.

9. Several commenters contended that the Commission should initiate a comprehensive review of our rules and practices relating to abbreviated dialing arrangements, due in part to the ''competing'' petitions, and other existing users. We decline, at this time, to do so because we find such a rulemaking proceeding to be unnecessary. In this *Third Report and Order,* we resolve issues that pertain to the two pending requests for assignment of N11 codes. With the exception of one outstanding petition, we also have resolved in this Order *Third Report and Order* most of the outstanding issues relating to the N11 proceeding. We also note that in the three-year period following the *N11 First Report and Order,* we have received only two petitions for assignment of the remaining N11 codes, both of which are resolved in this *Order,* and both had overwhelming support. We therefore decline to initiate a rulemaking and review of Commission rules and practices relating to abbreviated dialing codes at this time.

Regulatory Flexibility Act

10. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *N11 First Report and Order and FNPRM.* The Commission sought written public comment on the proposals in the *N11 First Report and Order,* including comment on the IRFA. The IRFA requested written public comment on two issues: (1) The technical feasibility of implementing 711 access for telecommunications relay services and (2) the proprietary nature of N11 codes and the transfer of the administration of N11 codes.

11. The first issue concerning the technical feasibility of implementing 711 access is being addressed in a companion proceeding captioned the *Second Report and Order.* Therefore, the Commission did not address that issue in this proceeding. The second issue concerning the sale or transfer of N11 codes and the administration of N11 is addressed in this proceeding. We conclude that the sale or transfer of the N11 codes through private transactions should not be allowed at this time, and that the Commission should continue to make assignments of N11 codes, rather than delegate this authority to another entity. Therefore, we decline to make any revisions or modifications to our rules at this time. The RFA requires that a Final Regulatory Flexibility Analysis (FRFA) be completed ''[w]hen an agency promulgates a final rule * * *''. 5 U.S.C. 604(a). Because we are not adopting any new rules and are not making any changes to existing rules, a FRFA is not required.

Ordering Clauses

12. Accordingly, *it is ordered,* pursuant to Sections 1, 4(i), and 251(e)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), and 251(e)(1), that this *Third Report and Order and Order on Reconsideration* is hereby *adopted.*

13. The Petition for assignment of an N11 for access to travel information services filed by the U.S. Department of Transportation is *granted,* and that the Petition for assignment of 211 for access to community information and referral services filed by the Information and Referral providers is *granted.*

14. The Petitions for Reconsideration and/or Clarification filed by Arch, BellSouth, Interactive Services Association, and International Association of Fire Chiefs and International Municipal Signal Association are *denied.*

15. 511 is *assigned* as a national abbreviated dialing code to be used exclusively for access to travel information services as of the effective date of this *Third Report and Order.*

16. That 211 is *assigned* as a national abbreviated dialing code to be used for access to community information and referral services as of the effective date of this *Third Report and Order.*

Federal Communications Commission.

Shirley Suggs,

Chief, Publications Branch.

[FR Doc. 01–3324 Filed 2–8–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–185, MM Docket No. 97–188, RM–9137]

Radio Broadcasting Services; Walnut Grove, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants a Petition for Reconsideration filed by Colon Johnston directed to the *Report and Order* in this proceeding to the extent of allotting Channel 244C2 to Walnut Grove, Mississippi. The *Report and Order* had dismissed this proposal. *See* 63 FR 26993, May 15, 1998. The reference coordinates for the Channel 244C2 allotment at Walnut Grove, Mississippi, are 32–42–50 and 89–23–48. With this action, the proceeding is terminated.

DATES: Effective March 13, 2001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 97–188. Adopted January 24, 2001, and released January 26, 2001. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals 11, CY–A257, 445 12th Street SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3805, 1231 M Street NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

47 CFR Part 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by adding Walnut Grove, 244C2.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–3410 Filed 2–8–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–179, MM Docket Nos. 96–7, 96–12, RM–8732, RM–8845, RM–8741, File No. BPH–960206IE]

Radio Broadcasting Services; Banks, Redmond, Sunriver, Corvallis and The Dalles, Oregon

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial.

SUMMARY: This document denies the petition for reconsideration filed by Madgekal Broadcasting, Inc., licensee of Station KFLY, Corvallis, Oregon, as repetitive and, pursuant to Section 1.429(b) of the rules, as based on facts not previously presented. It also affirms the Commission's Report and Order granting the upgrade of Station KDBX (FM), Banks, Oregon, from Channel 298C2 to Channel 298C1, filed by Common Ground Broadcasting, superseded by American Radio Systems License Corp., and subsequently superseded by CBS, Inc; the substitution of Channel 269C2 for Channel 298C2 at Redmond, Oregon; the allotment of Channel *268C3 at The Dalles filed by LifeTalk Broadcasting Association; and the allotment of Channel 224C2 at Sunriver, Oregon, filed by Hurricane Broadcasting, Inc. In addition, the Report and Order denied a settlement agreement between American Radio Systems License Corp. and Madgekal Broadcasting Inc. in which Madgekal Broadcasting Inc. would accept an upgrade for Station KFLY(FM), Corvallis, Oregon, from Channel 268C2 to Channel 268C1 for a payment of $950,000. The staff also denied Madgekal Broadcasting Inc.'s competing proposal filed as a one-step upgrade application upgrading Station KFLY to Channel 268C at Corvallis.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket Nos. 96–7, 96–12, adopted January 24, 2001, and released January 26, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street NW, Washington, Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–3411 Filed 2–8–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 213

[Docket No. RST–90–1, Notice No. 13]

RIN 2130–AB32

Track Safety Standards; Delay of Effective Date

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

ACTION: Final rule and corrections; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001, 66 FR 7702, this action temporarily delays for 60 days the effective date of the rule entitled Track Safety Standards, published in the **Federal Register** on January 10, 2001, 66 FR 1894. That rule concerns an amendment to the Track Safety Standards which provides procedures for track owners to use Gage Restraint Measuring Systems (GRMS) to assess the ability of their track to maintain proper gage.

Likewise, this action temporarily delays for 60 days the effective date of the document entitled Track Safety Standards; Correction, published in the **Federal Register** on January 31, 2001, 66 FR 8372. This document corrects inadvertent errors contained in the above rule.

DATES: The effective date of the final rule amending 49 CFR part 213 published in the **Federal Register** on January 10, 2001, at 66 FR 1894, is delayed for 60 days, from April 10, 2001, until June 9, 2001. The effective date of the Corrections to the final rule amending 49 CFR part 213 published in the **Federal Register** on January 31, 2001, at 66 FR 8372 is delayed for 60 days, from April 10, 2001, until June 9, 2001.

FOR FURTHER INFORMATION CONTACT: Nancy Lummen Lewis, Office of Chief

Counsel, Federal Railroad Administration, 1120 Vermont Avenue, NW., Mail Stop 10, Washington, DC 20590 (telephone: 202–493–6047).

SUPPLEMENTARY INFORMATION: To the extent that 5 U.S.C. section 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. section 553(b)(A). Alternatively, FRA's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. section 553(b)(B) and 553(d)(3). Seeking public comment is impracticable, unnecessary and contrary to the public interest. The temporary 60-day delay in effective date is necessary to give Department officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001. Given the imminence of the effective date, seeking prior public comment on this temporary delay would have been impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. The imminence of the effective date is also good cause for making this action effective immediately upon publication.

Issued in Washington, DC on January 31, 2001.

Ray Rogers,

Acting Deputy Administrator.

[FR Doc. 01–3211 Filed 2–8–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 390

[Docket Nos. FMCSA–97–2858 and FMCSA–99–5710]

RINs 2126–AA51 and 2126–A44 [formerly RINs 2125–E22 and 2125–AE60]

Federal Motor Carrier Safety Regulations; Definition of Commercial Motor Vehicle (CMV); Requirements for Operators of Small Passenger-Carrying CMVs; Delay of Effective Date

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001 (66 FR 7702), this action temporarily delays for 60 days the effective date of the final rule entitled ''Federal Motor Carrier Safety Regulations; Definition of Commercial Motor Vehicle (CMV); Requirements for Operators of Small Passenger-Carrying CMVs,'' published in the **Federal Register** on January 11, 2001, at 66 FR 2756. That rule adopts the statutory definition of a commercial motor vehicle (CMV) at 49 U.S.C. 31132; and amends the Federal Motor Carrier Safety Regulations to require that motor carriers operating CMVs designed or used to transport between 9 and 15 passengers (including the driver) for compensation file a motor carrier identification report, mark their CMVs with a USDOT identification number, and maintain an accident register.

DATES: The effective date of the final rule amending 49 CFR part 390 published at 66 FR 2756, January 11, 2001, is delayed for 60 days from February 12, 2001, until April 13, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Bus and Truck Standards and Operations (MC-PSV), (202) 366–4009; or Mr. Charles E. Medalen, Office of the Chief Counsel (MC-CC), (202) 366–1354, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, the FMCSA's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). Seeking public comment is impracticable, unnecessary and contrary to the public interest. The temporary 60-day delay in effective date is necessary to give Department officials the opportunituy for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001. Given the imminence of the effective date, seeking prior public comment on this temporary delay would have been impracticable, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. The imminence of the effective date is also good cause for making this action effective immediately upon publication.

Dated: February 2, 2001.

Julie Anna Cirillo,

Assistant Administrator and Chief Safety Officer.

[FR Doc. 01–3210 Filed 2–8–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 611

RIN 2132–AA63

Major Capital Investment Projects; Partial Stay

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Final rule; partial stay of effectiveness.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001, this action temporarily stays 49 CFR part 611, Major Capital Investment Projects, which was published in the **Federal Register** on December 7, 2000, at 65 FR 76864, with an effective date of February 5, 2001. That rule describes the procedures that FTA will use in the New Starts project evaluation and rating process. This temporary stay will allow the Department an opportunity for further consideration of this rule.

DATES: Effective February 5, 2001, 49 CFR part 611 is stayed until April 6, 2001, except for paragraphs (a)(1)(i)–(ii) and (d) of Appendix A to Part 611, which will become effective September 1, 2001.

FOR FURTHER INFORMATION CONTACT: For program issues, John Day, Office of Policy Development, FTA, (202) 366–4060. For legal issues, Scott A. Biehl, Assistant Chief Counsel, FTA, (202) 366–4063.

SUPPLEMENTARY INFORMATION: To the extent that 5 U.S.C. section 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. section 553(b)(A). Alternatively, FTA's implementation of this action without opportunity for public comment, effective February 5, 2001, is based on the good cause exceptions in 5 U.S.C. section 553(b)(B) and 553(d)(3). Seeking public comment is impracticable, unnecessary and contrary to the public interest. The temporary 60-day stay of the rule is necessary to give Department officials the opportunity for further

review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001. Given the imminence of the effective date, seeking prior public comment on this temporary stay would have been impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. The imminence of the effective date is also good cause for making this action effective February 5, 2001.

Issued on: January 31, 2001.

Hiram J. Walker,

Acting Deputy Administrator.

[FR Doc. 01–3207 Filed 2–6–01; 5:05 pm]

BILLING CODE 4910–57–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 001120324–1030–02; I.D. 110700D]

RIN 0648–AO71

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Extension of Closed Areas

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

ACTION: Interim final rule.

SUMMARY: This interim final rule extends the closure of the Hudson Canyon South and Virginia Beach Sea Scallop Closed Areas on an interim basis for 180 days or until such time that a controlled area access program for these two areas can be implemented through Framework 14 to the Atlantic Sea Scallop Fishery Management Plan (FMP), whichever is sooner. This action, which is necessary to reduce overfishing, will help ensure that fishing mortality rates do not exceed the target thresholds established in the FMP.

DATES: Effective March 2, 2001, through August 8, 2001.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) and any other documents supporting this action are available from Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, 1 Blackburn Drive, Gloucester, MA 01930–2298. The EA/RIR/FRFA is accessible via the Internet at http:/www.nero.gov/ro/doc/nr.htm.

FOR FURTHER INFORMATION CONTACT: Peter W. Christopher, Fishery Policy Analyst, 978–281–9288, fax 978–281–9135, e-mail peter.christopher@noaa.gov.

Send comments on any ambiguity or unnecessary complexity arising from the language used in this interim final rule to the Regional Administrator at the same address.

SUPPLEMENTARY INFORMATION: NMFS implemented an interim final rule on April 3, 1998 (63 FR 15324), that established two areas in the Mid-Atlantic region that were closed to all scallop fishing. This interim final rule was subsequently extended for 180 days (63 FR 51862, September 29, 1998) and on March 29, 1999, Amendment 7 to the FMP (64 FR 14835) extended the effective date of the closures through March 1, 2001.

While there are still concentrations of small scallops in the Hudson Canyon South and Virginia Beach Closed Areas, recent surveys by the NMFS Northeast Fisheries Science Center and Virginia Institute of Marine Science indicate that a large portion of the protected scallops have grown and could be of considerable value to the fishing industry. To address the concern that these scallops will be vulnerable to high fishing pressure upon the re-opening of the closed areas on March 1, 2001, the New England Fishery Management Council (Council) is currently developing Framework Adjustment 14 to the FMP, which includes an area access program for the Mid-Atlantic closed areas. This program would restrict scallop vessels when fishing in the re-opened Mid-Atlantic closed areas to a scallop possession limit and a limited amount of trips, among other measures. Because the Council is preparing a Supplemental Environmental Impact Statement for Framework 14 to assess the impacts of the fishery on the human environment, it is highly unlikely that the framework can be implemented by March 1, 2001, the date that the Mid-Atlantic closed areas are scheduled to re-open. An extension of the closures is, therefore, necessary to ensure that the areas do not open prior to protective measures being in place. NMFS published a proposed rule for this action on December 1, 2000 (65 FR 75232) and no comments were received in response to the request for comments. Further details concerning the justification for this interim final rule were provided in the preamble to the proposed rule and are not repeated here.

This interim final rule will delay the re-opening of the Hudson Canyon South and Virginia Beach scallop closed areas for 180 days or until such time that new measures to prevent overfishing in the areas are implemented, whichever is sooner. This action is authorized by section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and may be extended for an additional 180-day period.

Classification

The need to implement these measures in a timely manner to prevent overfishing and reduce the likelihood of long-term productivity losses and more severe restrictions in the future, constitutes good cause under 5 U.S.C. 553(d)(3) to delay for 15 days, rather than 30 days, the effectiveness of this interim final rule.

This interim final rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an FRFA as part of a regulatory impact review (RIR) that describes the economic impact this action, if adopted, would have on small entities. A copy of the FRFA is available from NMFS (see **ADDRESSES**). A summary of the FRFA follows:

A description of the reasons why action by the agency is being taken and the objectives of this interim final rule are explained in the preamble to the proposed rule and are not repeated here. This action does not contain any collection-of-information, reporting, recordkeeping or other compliance requirements. This action is taken under authority of the Magnuson-Stevens Fishery Act and regulations at 50 CFR part 648.

There were no public comments submitted in response to the initial regulatory flexibility analysis (IRFA). No changes were made from the proposed rule.

The FRFA considers the impacts that this action will have on small entities, which includes all holders of active scallop permits, since none have reported gross annual revenues greater than $3 million. The 1999 fishing season, March 1, 1999, to February 28, 2000, was the last full year of scallop fishing activity available for analysis. During that season, there were 345 qualified permits in the limited access fishery. In addition, 2,095 permits were issued to vessels in the open access General Category.

The alternative implemented by this interim final rule is expected to minimize negative economic impacts on

small entities, particularly in the long term, while achieving the conservation goals and overall objectives of the FMP.

NMFS considered 3 alternatives for action with respect to the Hudson Canyon South and Virginia Beach Closed Areas. The alternative to implement a controlled access program for the two closed areas was rejected because NMFS determined that it is not feasible to implement an area access program by March 1, 2001, due to the time constraints of developing such an action. Analysis of the action was, therefore, not completed. Two other alternatives were analyzed: Re-opening the areas on March 1, 2001, without control (no action); and extending the closures through the interim final rule for a period of 180 days or until a controlled access program is implemented (proposed action). NMFS selected the proposed action for 180 days from March 1, 2001, or until Framework 14 can be implemented (currently estimated to be May 2001), whichever is sooner, because it would prevent overfishing and would be more likely to achieve the goals of the FMP to maximize, over time, the joint social and economic benefits from harvesting and use of the sea scallop resource. The proposed action is not expected to reduce overall access to the closed areas in 2001 and will protect the growth potential of more young scallops for 2002, provided that Framework 14 is implemented in a timely fashion, as anticipated by the Council and NMFS. Vessels will be able to fish their days-at-sea (DAS) allocation outside of the closed areas. Any short-term negative impacts caused by delaying the re-opening of the two Mid-Atlantic areas to scallop fishing are expected to be offset by access to those areas through Framework 14 for the remainder of 2001 and by future recruitment of scallops. Without the proposed action, the most likely outcome would be that Framework 14 would need to implement measures that would prevent further access to these closed areas during 2001 because vessels would have exceeded the target fishing mortalities and total allowable catch by the time Framework 14 becomes effective. Therefore, the no-action alternative would likely reduce long-term economic benefits. Under this alternative, overfishing may occur in the areas, and the ability to maximize scallop yields from the areas and ensure that recruitment potential is maintained could be compromised, thereby reducing long-term benefits to the scallop fishing industry. Depending on the amount of fishing that has occurred in the absence of this interim action, access during the 2002 season might also have to be reduced substantially in order to rebuild the stock.

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

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 5, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. Section 648.57 is added to read as follows:

§ 648.57 Closed areas.

(a) *Hudson Canyon South Closed Area.* No vessel may fish for, possess, or retain sea scallops in or from the area known as the Hudson Canyon South Closed Area. No vessel may transit this closed area unless all scallop dredge gear on board is properly stowed and not available for immediate use in accordance with the provisions of § 648.23(b). Vessels fishing in this closed area for species other than scallops must stow scallop dredge gear in accordance with the provisions of § 648.23(b). The Hudson Canyon South Closed Area is defined by straight lines connecting the following points in the order stated:

Point	Latitude	Longitude
H1	39 30' N.	73 10' W.
H2	39 30' N.	72 30' W.
H3	38 30' N.	73 30' W.
H4	38 40' N.	73 50' W.

(b) *Virginia Beach Closed Area.* No vessel may fish for, possess, or retain sea scallops in or from the area known as the Virginia Beach Closed Area. No vessel may transit this closed area unless all scallop dredge gear on board is properly stowed and not available for immediate use in accordance with the provisions of § 648.23(b). Vessels fishing in the closed area for species other than scallops must stow scallop dredge gear in accordance with the provisions of § 648.23(b). The Virginia Beach Closed Area is defined by straight lines connecting the following points in the order stated:

Point	Latitude	Longitude
V1	37 00' N.	74 55' W.
V2	37 00' N.	74 35' W.
V3	36 25' N.	74 45' W.
V4	36 25' N.	74 55' W.

[FR Doc. 01–3387 Filed 2–8–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013-1301-01; I.D. 012901A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the pollock total allowable catch (TAC) for Statistical Area 610 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 6, 2001, until 1200 hrs, A.l.t., March 15, 2001.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the pollock TAC in Statistical Area 610 of the GOA is 7,707 metric tons (mt) as established by the Final 2001 Harvest

Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season allowance of the pollock TAC in Statistical Area 610 will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 6,707 mt, and is setting aside the remaining 1,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the amount of the 2001 A season pollock TAC specified for Statistical Area 610 of the GOA constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly the need to implement these measures in a timely fashion to prevent exceeding the 2001 A season pollock TAC specified for Statistical Area 610 of the GOA constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: February 5, 2001

Bruce C. Morehead

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

[FR Doc. 01–3369 Filed 2–6–01; 2:52 pm]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013-1013-01; I.D. 012201D]

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Eastern Aleutian District and Bering Sea Subarea of the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Atka mackerel with gears other than jig in the Eastern Aleutian District and the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allowance of the 2001 total allowable catch (TAC) of Atka mackerel in these areas.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 6, 2001, until 1200 hrs, A.l.t., September 1, 2001.

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

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

The A season allowance of Atka mackerel TAC for non-jig gear in the Eastern Aleutian District and the Bering Sea subarea was specified as 3,572 metric tons (mt) (66 FR 7327, January 22 2001). See § 679.20(a)(8)(ii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season allowance of TAC for non-jig gear Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 3,372 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance soon will be reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea of the BSAI.

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

Classification

This action responds to the Initial TAC limitations and other restrictions on the fisheries established in the 2001 Harvest Specifications for Groundfish for the BSAI. Pursuant to 5 USC 553(b)(3)(B), the Acting Assistant Administrator for Fisheries, NOAA, finds good cause exists to waive the prior notice and opportunity for public comment as such procedures are unnecessary and contrary to public interest. This action must be implemented immediately to prevent overharvesting the A season allowance of the 2001 TAC of Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea of the BSAI. Similarly good cause exists to waive the delay in the effective date as it would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: February 5, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–3368 Filed 2–6–01; 2:52 pm]

BILLING CODE 3510-22-S

Proposed Rules

Federal Register
Vol. 66, No. 28
Friday, February 9, 2001

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

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 24

RIN 1515–AB38

Fees Assessed for Defaulted Payments

AGENCY: Customs Service, Department of the Treasury.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document withdraws the proposed amendment to the Customs Regulations which would have allowed the assessment of a $30 defaulted payment fee for any check or other monetary instrument that was presented for duties, taxes or other charges, and returned unpaid by a financial institution, in connection with any commercial importation or other transaction secured by a Customs bond. Customs has concluded that the fee should not be assessed in cases where the transaction is already backed by a Customs bond and liquidated damages may properly be assessed under the bond for a defaulted payment. Customs authority to assess the $30 fee thus remains limited to defaulted payments on noncommercial importations and other transactions that are not supported by a bond.

DATE: This withdrawal is effective on February 9, 2001.

FOR FURTHER INFORMATION CONTACT: David Baker, Office of Finance, (202–927–0205).

SUPPLEMENTARY INFORMATION:

Background

Under § 24.1(e) of the Customs Regulations (19 CFR 24.1(e)), Customs may charge a $30 fee for each check that is returned by a financial institution unpaid, if that check was presented to Customs either for payment of duties, taxes or other charges incurred on noncommercial importations for which a formal entry was not required or for payment in connection with any other transaction not backed by a Customs bond.

By a document published in the **Federal Register** (59 FR 13664) on March 23, 1994, Customs proposed to amend § 24.1(e) to also provide for a $30 defaulted payment fee in those cases where the transaction was secured by a bond, in order to recoup the administrative costs incurred for processing returned checks and other defaulted payments in these situations as well.

Withdrawal of Proposal

Three comments were received from the public in response to the proposed rule. All opposed the amendment of § 24.1(e) to provide for a $30 fee in cases of defaulted payments of duties, taxes or other charges to Customs incurred in connection with commercial importations or other transactions that were supported by a bond. After careful consideration of these comments, and further review of the matter, Customs has determined not to proceed with the notice of proposed rulemaking to this effect that was published in the **Federal Register** (59 FR 13664) on March 23, 1994. Customs has concluded at this time that an additional fee should not be assessed in cases where a commercial importation or other Customs transaction is secured by a bond under which liquidated damages may properly be assessed for a defaulted payment of duties, taxes or other applicable charges. Customs authority to assess the $30 fee thus remains limited to defaulted payments on noncommercial importations and other transactions that are not supported by a bond.

Raymond W. Kelly,

Commissioner of Customs.

Approved: November 9, 2000.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–3359 Filed 2–8–01; 8:45 am]

BILLING CODE 4520–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 43 and 32

[CC Docket No. 98–137; CC Docket No. 99–117; AAD File No. 98–26; FCC 00–396]

1998 Biennial Regulatory Review—Review of Depreciation Requirements for Incumbent Local Exchange Carriers, Ameritech Corporation Telephone Operating Companies' Continuing Property Records Audit, et al., GTE Telephone Operating Companies Release of Information Obtained During Joint Audit

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission declines to adopt the alternative proposal set forth in a Further Notice of Proposed Rulemaking issued on April 3, 2000 concerning conditions for price cap incumbent local exchange carriers (ILECs) to obtain relief from the Commission's depreciation requirements. In addition, the Commission declines to pursue further investigation into the continuing property record (CPR) audits of certain ILECs that are currently before the Commission.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, TW–A325, Washington, DC. 20554.

FOR FURTHER INFORMATION CONTACT: JoAnn Lucanik at (202) 418–0873.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order in CC Docket 99–137 and Order in CC Docket No. 99–117 and AAD File No. 98–26. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC 20554. The complete text may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, Washington, DC 20036, telephone (202) 857–3800.

Summary of the Order

The alternative proposal set forth in the *April 2000 FNPRM,* 65 FR 19725 (April 12, 2000), as an option for price cap ILECs to obtain freedom from the Commission's depreciation

requirements, generated a great deal of controversy among the parties. In particular, significant concerns were raised by state regulatory commissions, consumer groups, and industry participants about the effect that the proposed above-the-line accounting treatment would have on local and interstate rates, unbundled network element (UNE) and interconnection rates, and universal service support. Many parties commenting on this issue generally disagreed with an accounting treatment that would permit above-the-line amortization of the regulatory-to-financial book differential over a five-year period. They also argued that the proposed non-recovery commitment included as part of the proposed alternative did not provide adequate assurance that a significant amount of costs would be excluded from recovery in customers' rates and did not protect against carriers' potential understatement of earnings and rates of return. In addition, many parties raised issues about the potential impact of the proposed above-the-line accounting treatment on state cost issues and argued that the non-recovery commitment proposed by the ILECs was not sufficient to assure that the amortized costs, particularly the intrastate portion, would be excluded from cost recovery.

Our review of the record finds that the parties have raised sufficient concerns that warrant our taking a cautious approach in this matter. We are concerned about assertions that the proposed accounting alternative set forth in the *April 2000 FNPRM,* along with the ILECs' non-recovery commitment, lacks the inherent protections that are provided for in the waiver process we approved in the *December 1999 Order* (which was not published in **Federal Register**). In light of the concerns expressed by various parties, particularly our state colleagues, we decline to adopt the proposed alternative set forth in the *April 2000 FNPRM* and instead maintain the status quo.

In making a decision here we weigh the concerns expressed by the states heavily in the balance. We are reluctant to take action that could unfairly burden state proceedings, particularly when our *December 1999 Order* provides a waiver process whereby carriers may seek additional relief from our depreciation prescription rules in the future without raising such concerns. In 1997, the Common Carrier Bureau's auditors began an audit of the CPRs of the largest ILECs, the RBOCs, to determine if their records were being maintained in compliance with the Commission's rules and to verify that property recorded in their accounts represented equipment used and useful for the provision of telecommunications services.

We note that the audits of the carriers' CPRs were initiated more than three years ago. The telecommunications landscape has changed significantly since that time. Among other things, in a recent decision issued on May 31, 2000, we adopted reforms intended to accelerate competition in the local and long distance telecommunications markets and set the appropriate level of interstate access charges for the next five years (''*May 2000 Access Reform Order*'') (which was not published in the **Federal Register**). Specifically, we provided for an immediate reduction in access charges paid by long distance companies and removed implicit subsidies found in interstate access charges by converting them into explicit, portable, universal service support. In earlier actions to implement the 1996 Act, we took steps to move the price of long distance companies' access to local telephone networks towards levels that reflect costs. These actions have brought about significant reductions in access charges and major changes in the interstate rate structure that resolve historically complex issues (some dating back nearly two decades), in a manner that benefits consumers.

In light of these recent reform measures, which in large part are only beginning to get underway, and the fact that the CPR audits were conducted prior to our implementation of these various reforms, we now decide not to pursue further investigation into the CPR audits and close the proceeding with regard to whether the CPRs reflected assets that were not purchased or used by the RBOCs in accordance with our rules. Further, we note that although we have made no decision concerning the findings stated in the CPR audits, we recognize that further investigation into the CPR audit matter will require a great deal of time and effort, and could prove to be a lengthy and costly proceeding for all participants. We wish to make clear, however, that our decision in this order does not preclude the states from investigating relevant state issues raised by the CPR audits.

Finally, while we decline here to further pursue investigation into the CPR audits with regard to whether the CPRs reflected assets that were not purchased or used by the RBOCs in accordance with our rules, we remain concerned about the poor record keeping that these audits revealed. The Commission's auditors found, and the RBOCs did not seriously challenge, that the CPRs were not well maintained. Thus, we find that the RBOCs' CPRs were not maintained in accordance with our rules. Accordingly, we direct the Common Carrier Bureau to work with the RBOCs to evaluate and improve the accuracy of their property records and accounts to ensure compliance with our requirements going forward.

Conclusion

The alternative proposal set forth in the *April 2000 FNPRM* has generated substantial controversy over whether it provides the same protections as provided in the *December 1999 Order* given the expressed concerns of our state colleagues, we decline to adopt it. Carriers remain free to seek relief under the waiver approach adopted in the *December 1999 Order* to obtain freedom from the Commission's depreciation requirements. Moreover, we have determined not to pursue further investigation into whether the RBOCs' CPRs reflected assets that were not purchased or used by the RBOCs in accordance with our rules and hereby close the CPR audit proceedings in this respect.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–3117 Filed 2–8–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–193; MM Docket No. 00–155; RM–9924]

Radio Broadcasting Services; Las Vegas and Rowe, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial.

SUMMARY: The Commission denies the request of Meadows Media, LLC, permittee of Station KTRL, Las Vegas, New Mexico, to substitute Channel 275C3 for Channel 275C2 at Las Vegas, the reallotment of Channel 275C3 to Rowe, as its first local aural service, and the modification of Station KTRL's construction permit accordingly. The Commission found that petitioner did not show that Rowe has sufficient community indicia to find that it is a community for allotment purposes. In addition, even if it were found to be a community for allotment purposes, the Commission found that the reallotment would not result in a preferential

arrangement of allotments because it would result in a substantially larger number of people remaining underserved with only one fulltime reception service than would receive a first local aural service but already receive at least two fulltime aural services. *See* 65 FR 54192, September 15, 2000.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–155, adopted January 17, 2001, and released January 26, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–3412 Filed 2–8–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–186; MM Docket No. 01–18; RM–10026]

Radio Broadcasting Services; Arriba, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Alan Olson, requesting the allotment of Channel 297A to Arriba, Colorado, as that community's first local aural transmission service. This proposal requires a site restriction 2.4 kilometers (1.5 miles) southeast of Arriba, utilizing coordinates 39–16–05 NL and 103–15–38 WL.

DATES: Comments must be filed on or before March 19, 2001, and reply comments on or before April 3, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Alan Olson, 934 E. Vermijo Ave., Colorado Springs, CO 80903.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed RuleMaking, MM Docket No. 01–18, adopted January 17, 2001, and released January 26, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Arriba, Channel 297A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–3413 Filed 2–8–01; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH61

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period and Notice of Availability of the Draft Economic Analysis for Proposed Critical Habitat for the Bay Checkerspot Butterfly

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and notice of availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the draft economic analysis for the proposed designation of critical habitat for the bay checkerspot butterfly (*Euphydryas editha bayensis*). We are also providing notice of the reopening of the comment period for the proposal to designate critical habitat for the bay checkerspot butterfly to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this reopened comment period and will be fully considered in the final rule.

DATES: We will accept public comments until March 12, 2001. In addition, we are planning on holding one public information meeting during this time. Refer to the Public Information Meeting section for the date, time, and location of this meeting.

ADDRESSES: Written comments and information should be submitted to Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W–2605, Sacramento, California 95825. For electronic mail address and further instructions on commenting, refer to Public Comments Solicited section of this notice.

FOR FURTHER INFORMATION CONTACT: For general information, contact David Wright, Stephanie Brady or Patricia Foulk, at the above address (telephone 916/414–6600; facsimile 916/414–6710).

SUPPLEMENTARY INFORMATION:

Background

The bay checkerspot butterfly (*Euphydryas editha bayensis*) is a medium-sized butterfly with a wing span of about 5 centimeters (2 inches).

The forewings have black bands along all the veins on the upper wing surface, contrasting sharply with bright red, yellow and white spots. The species occurs in San Francisco Bay area counties, notably the counties of San Mateo and Santa Clara. For a detailed description of this species, see the Recovery Plan for Serpentine Soil Species of the San Francisco Bay Area (FWS 1998) and references within that plan.

Pursuant to the Endangered Species Act of 1973, as amended (Act), the bay checkerspot butterfly was listed as a threatened species on September 18, 1987 (52 FR 35366). Residential and commercial development, invasive non-native plants, and air pollution threaten the bay checkerspot butterfly.

On June 30, 1999, the Center for Biological Diversity, filed a complaint against us challenging our critical habitat findings for seven species, including the bay checkerspot. On August 30, 2000, the United States District Court for the Northern District of California (*Southwest Center for Biological Diversity* v. *Bruce Babbit. et al.,* CIV 99–3202) ruled on several of the species involved, including the bay checkerspot. The court ordered us to propose critical habitat within 60 days of the ruling and to finalize the designation within 120 days of the proposed designation. A subsequent settlement agreement with the Center for Biological Diversity extended the date for the final rule to April 20, 2001.

On October 16, 2000, we published in the **Federal Register** (65 FR 61218) a proposed rule to designate critical habitat for the bay checkerspot butterfly. The original comment period closed on December 15, 2000.

We have proposed to designate 15 critical habitat areas totaling approximately 10,600 hectares (ha) (26,180 acres(ac)) in Santa Clara and San Mateo counties of California. The areas range in size from 179 ha (443 ac) to approximately 2,855 ha (7,055 ac).

Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act (16 U.S.C. 1531 *et seq.*) with regard to actions carried out, funded, or authorized by a Federal agency. Section 4(b)(2) of the Act requires that the Secretary shall designate or revise critical habitat based upon the best scientific and commercial data available, and may exclude areas from designation after taking into consideration the economic impact of specifying any particular area as critical habitat. Based upon the previously published proposal to designate critical habitat for the bay checkerspot butterfly, and comments received during the previous comment periods, we have prepared a draft economic analysis of the proposed critical habitat designation. The draft economic analysis is available at the Internet and mailing addresses in the Public Comments Solicited section below.

Public Comments Solicited

We will accept written comments and information during this re-opened comment period. If you wish to comment, you may submit your comments and materials concerning this proposal by any of several methods:

(1) You may submit written comments and information to the Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W–2605, Sacramento, California 95825.

(2) You may send comments by electronic mail (e-mail) to: fw1baycheckerspot@fws.gov. If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include ''Attn: RIN 1018–AH61''' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Sacramento Fish and Wildlife Office at telephone number 919/414–6600.

(3) You may hand-deliver comments to our Sacramento Fish and Wildlife Office at the address given above or at the public information meeting (see Public Information Meeting section below).

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business hours at the address under (1) above. Copies of the draft economic analysis are available on the Internet at ''www.r1.fws.gov'' or by writing to the Field Supervisor at the address under (1) above.

Public Information Meeting

We have scheduled one public information meeting. This meeting will be held on February 22, 2001, from 1:00 to 4:00 p.m., at the Hyatt Sainte Claire, 302 South Market Street, San Jose, California. You may hand-deliver written comments at this meeting.

Author(s)

The primary authors of this notice are Stephanie Brady (see **ADDRESSES** section), and Christine Mullen, U.S. Fish and Wildlife Service, Regional Office, 911 N.E. 11th Avenue, Portland, Oregon 97232.

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: February 5, 2001.

Elizabeth H. Stevens,

Acting Manager, California/Nevada Operations Office, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 01–3345 Filed 2–8–01; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 66, No. 28

Friday, February 9, 2001

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

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Alaska Federal Subsistence Regional Advisory Council Meeting

AGENCY: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Alaska Federal Subsistence Regional Advisory Councils will be meeting as a group to review fisheries resource monitoring plans. You are invited to attend and observe meeting proceedings. In addition, you may provide oral testimony on these proposed projects. The Regional Council agendas include: Introduction of Regional Council members and guests; Summary of FY 2000 fisheries resource monitoring projects; Review of draft FY 2001 fisheries resource monitoring projects.

DATES: Federal Subsistence Regional Advisory Councils will meet at the Anchorage Marriott Downtown, 820 West 7th Avenue, Anchorage, Alaska, starting at 8:30 a.m. on February 6, 2001, and at 9 a.m. on February 7, 2001.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, 3601 C Street, Suite 1030, Anchorage, Alaska 99503; telephone (907) 786–3888. For questions related to subsistence management issues on National Forest Service lands, you may direct your inquiries to Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, 3601 C Street, Suite 1030, Anchorage, Alaska 99503; telephone (907) 786–3592.

SUPPLEMENTARY INFORMATION: The Regional Councils were established in accordance with Section 805 of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and Subsistence Management Regulations for Public Lands in Alaska, 36 CFR Part 242 and 50 CFR Part 100, Subparts, A, B, and C (64 FR 1276). The Regional Councils advise the Federal Government on all matters related to the subsistence taking of fish and wildlife on public lands in Alaska and operate in accordance with provisions of the Federal Advisory Committee Act.

The Regional Council meeting is open to the public. You are invited to attend this meeting observe the proceedings, and provide comments to the Regional Councils. The Regional Councils will be briefed on the draft FY2001 fisheries resource monitoring projects and will develop their recommendations to the Federal Subsistence Board. You can find additional information regarding the draft FY2001 fisheries resource monitoring projects on our website at http://www.r7.fws.gov/asm/home.html. You may provide testimony from approximately 9:45–11 a.m. each day. For further information, in addition to the contacts listed above, you may also contact Luise Woelflein by email at luise_woelflein@fws.gov. For special accommodations and teleconferencing information, contact the Office of Subsistence Management at least 72 hours before the meeting. TTY users may call through the Federal Relay Service at 1–800–877–8339.

Dated: January 11, 2001.

Kenneth E. Thompson,

Regional Subsistence Program Manager, USDA—Forest Service.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

[FR Doc. 01–1955 Filed 2–6–01; 3:49 pm]

BILLING CODE 4310–55–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Comments must be received on or before March 12, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Food Service

Naval Air Station, Pensacola, Naval Technical Training Center, Corry Station, Pensacola, FL

NPA: Lakeview Center, Inc., Pensacola, Florida

Janitorial/Custodial

FAA Facilities, ARTCC, Guard Shack, ZANNEX Building & ZAN Village, Anchorage, Alaska
NPA: MQC Enterprises, Inc., Anchorage, Alaska

Janitorial/Custodial

California Air National Guard, Building 546, Moffett Federal Airfield, California
NPA: VTF Services, Palo Alto, California

Janitorial/Custodial

VA Medical Center, Dental Laboratory, Washington, DC
NPA: Columbia Lighthouse for the Blind, Washington, DC

Janitorial/Custodial

Great Lakes Naval Training Center, Great Lakes, Illinois
NPA: Ada S. McKinley Community Services, Chicago, Illinois

Mailroom and Records Management Services

U.S. Army Corps of Engineers, Jacksonville, Florida
NPA: Tampa Lighthouse for the Blind, Tampa, Florida

G. John Heyer,

General Counsel.

[FR Doc. 01–3385 Filed 2–8–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List a commodity and services previously furnished by such agencies.

EFFECTIVE DATE: March 12, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: On December 15 and December 22, 2000 the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (65 FR 78466 and 80833) of proposed additions to and deletions from the Procurement List:

Additions

The Following Comments Pertain to Uniform Rental Service, National Institute of Health, Bethesda, Maryland

Comments were received from the current contractor in response to a request for sales data. The contractor described what it does to provide the uniform service, which is basically the same tasks that the nonprofit agency designated by the Committee will perform, and noted that it had dedicated employees to provide the service. The contractor also noted that it uses a nonprofit agency for people with disabilities to support its provision of the service. The contractor further noted that loss of the service would have a substantial impact on a contractor facility and that facility's ability to pay expenses and employees. In a second letter, the contractor stated that it had been active in supporting blind services in its headquarters city for a number of years and had received an award for that support.

The Committee looks to the total sales of a corporation in assessing the severity of impact of a Procurement List addition on that corporation. Because of the size of the contractor's corporation, the impact of this addition is very small. The contractor has not provided data concerning the impact of the addition on the nonprofit agency which supports the work of the contractor's facility, nor has the nonprofit agency provided such data. Consequently, the Committee believes that the impact on the nonprofit agency will not be substantial.

The Committee appreciates the fact that the contractor supports blind services in its headquarters city. However, the contractor has not indicated that its support will be affected by the Procurement List addition, nor otherwise indicated that adverse impact on the blind groups it supports will occur if the addition is made. Therefore, the Committee does not see this information as relevant to its addition decision.

The Following Material Pertains to All of the Items Being Added to the Procurement List

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Kit, Martial Arms Training
7810–00–NSH–0001
7810–00–NSH–0002
7810–00–NSH–0003

Services

Janitorial/Custodial
Naval & Marine Corps Reserve Center, Peoria, Illinois
Janitorial/Custodial
Illinois Air National Guard, 182nd Airlift Wing, Peoria, Illinois
Janitorial/Custodial
Naval & Marine Corps Reserve Center, Lehigh Valley, Pennsylvania
Mailroom Operation
McCoy Federal Building, Jackson, Mississippi
Uniform Rental Service
National Institute of Health, Bethesda, Maryland

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodity and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. Accordingly, the following commodity and services are hereby deleted from the Procurement List:

Commodity

Floorboard, Wood
2510–01–067–2630

Services:

Administrative Services
Frank Hagel Federal Building, 1221 Nevin Avenue, Richmond, California
Grounds Maintenance
Mare Island Naval Complex and Roosevelt Terrence and Combat Systems Technical School Command, Mare Island Naval Shipyard, Vallejo, California
Janitorial/Custodial
U.S. Federal Building and Courthouse, 110 S. 4th Street, Minneapolis, Minnesota
Parts Sorting
Kelly Air Force Base, Texas

G. John Heyer,

General Counsel.

[FR Doc. 01–3386 Filed 2–8–01; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, February 16, 2001, 7:30 a.m.

PLACE: Wynhdham Miami Biscayne Bay Hotel, 1601 Biscayne Boulevard, Bahama Room, Miami, FL 33132.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of January 12, 2001 Meeting
III. Announcements
IV. Staff Director's Report
V. Final Report Card: The Civil Rights Performance of the Clinton Administration
VI. State Advisory Committee Report
- Reconciliation at a Crossroads: The Implications of *Rice* v. *Cayetano* on Programs for Native Hawaiians

VII. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: Les Jin, Office of the Staff Director, (202) 376–7700.

9:00 a.m. Hearing to Begin

Edward A. Hailes, Jr.,

General Counsel.

[FR Doc. 01–3452 Filed 2–6–01; 4:25 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration, Commerce

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended export trade certificate of review, Application No. 96–A0005.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted originally to Spirit Index, Ltd. on November 15, 1996. Notice of issuance of the Certificate was published in the **Federal Register** on November 21, 1996 (61 FR 59217).

FOR FURTHER INFORMATION CONTACT: Vanessa M. Bachman, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or at E-mail at oetca@ita.doc.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (2000).

The Office of Export Trading Company Affairs (''OETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 96–00005, was issued to Spirit Index, Ltd. on November 15, 1996 (61 FR 59217, November 21, 1996). Spirit Index, Ltd.'s Certificate of Review has been amended to change the name of the Certificate holder from Spirit Index, Ltd. originally located at 342 White Horse Pike, Clementon, New Jersey 08021–4345, to Thomas P. Kaczur at 259 Rockaway Street, Islip Terrace, New York 11752–1104.

A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: February 5, 2001.

David C. Bowie,

Acting Deputy, Assistant Secretary for Service Industries and Finance.

[FR Doc. 01–3395 Filed 2–8–01; 8:45 am]

BILLING CODE 3510–DR–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020501B]

Southwest Region Vessel Monitoring System Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA)

ACTION: Proposed information 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 comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 10, 2001.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional technical information on VMS Units and operations, please contact Mr. Bob Harman at NOAA Honolulu Law Enforcement, P.O. Box 50246, Honolulu,

HI 96850-7118, (808) 541-3075, *bob.harman@noaa.gov*. For information on regulations pertaining to VMS Units or copies of the information collection instrument(s) and instructions should be directed to Alvin Katekaru, National Marine Fisheries Service, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814, (808) 973-2935 ext. 207, alvin.katekaru@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Federal permit holders in the Hawaii longline pelagic fishery are prohibited from fishing unless their vessel has an operational Vessel Monitoring System (VMS)unit. Permit holders in the lobster fishery of the Northwestern Hawaiian Islands that use a VMS are allowed to fish closer to fishing grounds before the regulated opening of the fishery. VMS units automatically transmit periodic location reports, allowing fishery enforcement offices to establish the position of the vessels. These requirements are currently approved under OMB Control #0648-0307, but renewal of OMB clearance is being sought separately from the other requirements that formed 0648-0307.

II. Method of Collection

All VMS position reports are transmitted automatically and electronically.

III. Data

OMB Number: None.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business and other for-profit organizations.
Estimated Number of Respondents: 165.
Estimated Time Per Response: 4 hours to install a VMS, 2 hours per year to repair and maintain a VMS, and 24 seconds per day to transmit automated positions reports.
Estimated Total Annual Burden Hours: 731.
Estimated Total Annual Cost to Public: None.

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: February 2, 2001.

Madeleine Clayton,

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

[FR Doc. 01–3388 Filed 2–8–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020501A]

Tag Recapture Card

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information 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, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 10, 2001.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to David Rosenthal, F/SEC2, Room 224, 75 Virginia Beach Drive, Miami, FL 33149-1003 (phone 305-361-4253).

SUPPLEMENTARY INFORMATION:

I. Abstract

NOAA conducts a Cooperative Gamefish Tagging Program to obtain scientific information on migratory patterns, age, growth, etc. The information is necessary for stock management. Persons capturing tagged fish are asked to provide data on the site of the capture, fish weight, and other subjects.

II. Method of Collection

The information is submitted on a form.

III. Data

OMB Number: 0648-0259.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Individuals or households.
Estimated Number of Respondents: 240.
Estimated Time Per Response: 2 minutes.
Estimated Total Annual Burden Hours: 8.
Estimated Total Annual Cost to Public: $0.

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: February 2, 2001.

Madeleine Clayton,

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

[FR Doc. 01–3389 Filed 2–8–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 001206342-0342-01; I.D. 080200B]

RIN 0648-ZB00

NOAA Restoration Center; Request for National and Regional Habitat Restoration Partners

AGENCY: National Marine Fisheries Service (NOAA Fisheries), National

Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of request for partnership proposals.

SUMMARY: The purpose of this document is to invite the public to submit multi-year proposals for establishing innovative partnerships with the NOAA Restoration Center (RC) at a national or regional level to further habitat restoration that will benefit living marine resources including anadromous fish. NOAA envisions working jointly on such partnerships, through its Community-Based Restoration Program (CRP), to select, competitively fund, and administer projects with substantial community involvement that restore NOAA trust resource habitat.

This document describes the types of habitat restoration partnerships that the RC envisions establishing, and describes criteria under which applications will be evaluated for funding consideration. Partnerships selected through this notice will be implemented through a cooperative agreement mechanism and will involve joint selection and co-funding of multiple community-based habitat restoration projects. This is not a request for individual community-based habitat restoration project proposals.

DATES: This is an open notice for applications that runs through September 1, 2001. Applications will be evaluated and partners selected within 45 days after date of publication in the **Federal Register** and each month thereafter until the close of this solicitation. No facsimile or electronic mail applications will be accepted.

ADDRESSES: Send applications to James P. Burgess, Director, NOAA Restoration Center, National Marine Fisheries Service, 1315 East West Highway (F/HC3), Silver Spring, MD 20910-3282; ATTN: CRP Partnership Applications.

See **SUPPLEMENTARY INFORMATION** section under Electronic Access for additional information on the Program and for application form information.

FOR FURTHER INFORMATION CONTACT: Christopher D. Doley or Robin J. Bruckner, (301) 713-0174, or by e-mail at *Chris.Doley@noaa.gov* or *Robin.Bruckner@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Program Description

The CRP, a financial and technical Federal assistance program, promotes strong partnerships at the national, regional and local levels to fund grass-roots, community-based activities that restore living marine resources and their habitats and promote stewardship and a conservation ethic for NOAA trust resources. NOAA trust resources are living marine resources that include commercial and recreational fishery resources (marine fish and shellfish and their habitats); anadromous species (fish, such as salmon and striped bass, that spawn in freshwater and then migrate to the sea); endangered and threatened marine species and their habitats; marine mammals, turtles, and their habitats; marshes, mangroves, seagrass beds, coral reefs, and other coastal habitats; and resources associated with National Marine Sanctuaries and National Estuarine Research Reserves. Priorities for habitat restoration partnership activities include: areas identified by NOAA Fisheries as essential fish habitat (EFH) and areas within EFH identified as Habitat Areas of Particular Concern; areas identified as critical habitat for federally or state listed marine and anadromous species; areas identified as important habitat for marine mammals and turtles; watersheds or such other areas under conservation management as special management areas under state coastal management programs; and other important commercial or recreational marine fish habitat, including degraded areas that historically were important habitat for living marine resources.

The CRP's objective is to bring together citizen groups, public and nonprofit organizations, watershed groups, industry, corporations and businesses, youth conservation corps, students, landowners, and local government, state, and Federal agencies to implement habitat restoration projects to benefit NOAA trust resources. Partnerships developed at national, regional and local levels contribute funding, land, technical assistance, workforce support or other in-kind services to promote citizen participation in the improvement of locally-important living marine resources and develop local stewardship and monitoring activities to sustain and evaluate the success of the restoration.

The CRP recognizes the significant role that partnerships can play in making habitat restoration happen within communities, and acknowledges that habitat restoration is often best implemented through technical and monetary support provided at a community level. Community-based restoration projects supported by the CRP are successful because they have significant local backing, depend upon citizens' hands-on involvement, and typically involve NOAA technical assistance or oversight. The role of NOAA in the CRP is to help identify potential restoration projects, strengthen the development and implementation of sound restoration projects within communities, and develop long-term, ongoing national and regional partnerships to support community-based restoration efforts of living marine resource habitats across a wide geographic area. For more information on the CRP, see Electronic Access.

II. Restoration Partnership Priorities

NOAA is interested in developing national and regional partnerships that will lead to the accomplishment of on-the-ground, community-based restoration of marine, coastal and freshwater habitats to benefit living marine resources, including anadromous fish species. The primary goals of NOAA in establishing these partnerships are to restore living marine resource habitats; to involve community member volunteers in restoration activities to increase public awareness of the ecological value of fisheries habitat and foster a sense of community stewardship and pride for local restoration efforts; to develop and maintain long-term, ongoing, working relationships of mutual benefit by partnering on activities where the priorities and goals of partners overlap; to combine resources with national and regional partners to increase the geographic scope and rate at which habitat restoration can be conducted; and to collaborate on project identification, development, and selection for funding with partners that are able to coordinate and manage most or all aspects of restoration activities.

The RC envisions four primary means of working collaboratively to implement fisheries habitat restoration through partnerships: (1) Through sharing of restoration priorities, project ideas and techniques among interested organizations; (2) through the investment of technical assistance and oversight on particular restoration projects of mutual interest; (3) through collaborative identification of quality habitat restoration projects, and independent investment of technical assistance and cash and in-kind project contributions; and (4) through cooperative agreements, where potential national and regional partners apply for funds to work with the RC on a multi-year basis to identify, develop, implement and monitor community-based habitat restoration projects to benefit NOAA trust resources. Establishing partnerships through a cooperative agreement mechanism will involve joint selection and co-funding of numerous community-based habitat

restoration projects, and is the primary focus of this **Federal Register** document.

III. National and Regional Restoration Partnerships

NOAA invites the submission of multi-year proposals of up to 3 years for establishing innovative partnerships with the RC at a national or regional level to further coastal habitat restoration. Successful applicants will be those whose partnership proposals are broad-reaching and demonstrate the potential for significant benefits to living marine resources across a large geographic area, and those whose restoration projects will actively engage community participation. Applicants seeking to establish partnerships must demonstrate that restoration activities will be consistent with NOAA Fisheries priorities outlined in this notice.

Proposals for both national and regional partnerships are encouraged. However, because regional partnerships are more focused in geographic scope, these applicants will be expected to demonstrate coordinated efforts among multiple groups such as universities, science centers, state and municipal agencies, watershed groups, local schools, civic groups and non-governmental organizations. Applications for regional partnerships should involve a coalition that will develop joint goals and objectives to accomplish habitat restoration, and whose activities are expected to take place across a substantial and defined geographic region, such as the Chesapeake Bay watershed or the states that border the Gulf of Maine, for example.

The CRP has worked with a variety of partners on community-based fishery habitat restoration. Successful partnerships resulted where joint goals and priorities were most effectively accomplished through collaborative activities, including the pooling of financial and technical resources. The following narrative highlights the qualitites the CRP expects in working with national and regional community-based restoration partners. The example is only illustrative and is not intended to limit the scope of partnership proposals.

The CRP seeks partnerships to match NOAA cash contributions at a minimum of a 1:1 level, enabling a greater number of jointly evaluated and selected community-based habitat restoration projects to be implemented. The combined partnership investments are to be subsequently leveraged between 1 and 5 times once cash and in-kind contributions from local partners and volunteers are included. Ideally, NOAA's contribution under a partnership is used to co-fund competitive habitat restoration projects that benefit a wide range of NOAA trust resources over a substantial geographic area. NOAA and its partner will jointly solicit for local, citizen-driven habitat restoration proposals, and identify, evaluate and prioritize individual projects for funding. Partners will be expected to play a primary role in project development, the competitive solicitation of proposals, the coordination of joint reviews and evaluations of proposals, the award and administration of sub-grants, and the direct administrative oversight and routine review of funded projects. Partners will be expected to ensure that all work on individual projects will meet Federal, state and local environmental permitting requirements and that projects will be monitored to evaluate their success. Partners also will be expected to conduct all financial, administrative and contractual aspects of subsequent awards, consistent with all applicable Federal regulations and U.S. Department of Commerce/NOAA procedures and policies. NOAA's role in most partnerships would be to provide technical assistance in project development, conduct requisite field visits, assist in the review and evaluation of proposals, and provide funding and technical guidance during project implementation and monitoring of project success.

Projects funded under the partnership will be expected to have strong on-the-ground habitat restoration components that provide educational and social benefits for people and their communities in addition to long-term ecological habitat improvements for NOAA trust resources. NOAA recognizes that accomplishing restoration is a multi-faceted effort involving project design, engineering services, permitting, construction, oversight and monitoring. Therefore, to allow maximum flexibility under a partnership, applicants should avoid unduly restricting proposed activities to specific restoration phases.

Restoration is defined here as activities that contribute to the return of degraded or altered marine, estuarine, coastal and freshwater anadromous fish habitats to a close approximation of their condition prior to disturbance. Restoration may include, but is not limited to, improvement of coastal wetland tidal exchange or reestablishment of historic hydrology; dam or berm removal; improvement or reestablishment of fish passageway; natural or artificial reef/substrate/habitat creation; establishment of riparian buffer zones and improvement of freshwater habitat features that support anadromous fishes; planting of native coastal wetland and submerged aquatic vegetation; and enhancement of feeding, spawning and growth areas essential to marine or anadromous fish.

A partnership application may target the restoration of specific habitats, or restrict work to certain geographic locations or the use of certain restoration techniques, if the restoration of these habitats or work in designated locations or with particular techniques has been documented under a regional planning effort to be a priority that is also consistent with the priorities of NOAA Fisheries. An example of suitable documentation includes proposed restoration activities resulting from a regional planning or other process where multiple stakeholders have reached consensus. Proposals for partnerships with a narrow restoration focus that will benefit limited resources or few user groups, or that request funding solely to support or increase general organizational activities, are not considered ideal for the partnership development goals of the NOAA Restoration Center, and will be less likely to be selected for partnership agreements with the RC.

IV. Authority

The Secretary of Commerce is authorized under the Fish and Wildlife Coordination Act, 16 U.S.C. 661-666, to provide grants or cooperative agreements for fisheries habitat restoration.

V. Catalogue of Federal Domestic Assistance

This Program is described in the ''Catalogue of Federal Domestic Assistance,'' under program number 11.463, Habitat Conservation.

VI. Eligible Applicants

Eligible applicants are institutions of higher education, hospitals, other non-profits, commercial organizations, organizations under the jurisdiction of foreign governments, international organizations, state, local and Indian tribal governments, and Federal agencies. Although Federal agencies are eligible to apply, they are strongly encouraged to work with states, non-governmental organizations, national service clubs or youth corps organizations and others that are eligible to apply as potential NOAA habitat restoration partners, rather than seeking partnerships directly with NOAA. Proposals selected for funding from non-Federal applicants will be funded through a project grant or cooperative

agreement under the terms of this document. Proposals selected for funding from a non-NOAA Federal agency will be funded through an interagency transfer. Note: Before non-NOAA Federal applicants may be funded, they must demonstrate that they have legal authority to receive funds for the purpose of this program in excess of their appropriation. Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis.

Pursuant to Executive Orders 12876, 12900, and 13021, the Department of Commerce National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges and Universities in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in, and benefit from, Federal financial assistance programs. DOC/NOAA encourages proposals for innovative national and regional partnerships involving MSIs according to the criteria in this document, to strengthen the capacity of MSIs to foster student careers, research and workforce competitiveness in fisheries habitat restoration through identification, development, implementation and monitoring of on-the-ground community-based restoration projects on a national or regional scale.

VII. Anticipated Funding Levels for Partnership Activities

This solicitation invites multi-year partnerships of up to 3 years with the NOAA Restoration Center, in the form of cooperative agreements of up to $4,000,000 (combined NOAA and partner funds, maximum Federal funds $2 M) for the formation of national habitat restoration partnerships, and up to $2,000,000 (combined NOAA and partner funds, maximum Federal funds $1 M) for the formation of regional partnerships beginning in FY 2001, with allowances for higher amounts if the applicants can produce a match in excess of 1:1. Combined funds for partnerships may be scaled up from FY 2001 levels to $6,000,000 (national) and $3,000,000 (regional) in FY 2002, and to $8,000,000 (national) and $4,000,000 (regional) in FY 2003 with future budget increases. In accordance with NOAA Community-Based Restoration Program Guidelines (65 FR 16890, March 30, 2000), the Restoration Center Director will determine the proportion of funds available to the CRP on an annual basis that will be obligated to national and regional partnerships each year, including the proportion to be used for interagency partnerships, and the proportion to be used for direct solicitations through the CRP. The number of partnership awards to be made as a result of this solicitation will depend on the number of eligible applications received, the amount of funds requested for initiating partnerships by the applicants, the merit and rating of the proposals, and the amount of funds made available to the CRP by Congress. There is no guarantee that sufficient funds will be available to initiate partnerships where funding has been approved, and the mix of national and regional partnerships will be up to the discretion of the RC director. National partnerships generally will have preference over regional partnerships if available funds are limited. The exact amount of funds that may be awarded to work within a habitat restoration partnership will be determined in pre-award negotiations between the applicant and NOAA representatives. Publication of this document does not obligate NOAA to establish any specific partnership proposed or to obligate all or any parts of the available funds for partnership activities.

For partnerships where funding is approved, funds awarded cannot necessarily pay for all the costs that the recipient might incur in the course of carrying out the partnership role.

Allowable costs are determined by reference to the Office of Management and Budget (OMB) Circulars A-122, ''Cost Principles for Non-profit Organizations''; A-21, ''Cost Principles for Education Institutions''; and A-87, ''Cost Principles for State, Local and Indian Tribal Governments.'' Generally, costs that are allowable include salaries, equipment, supplies, and training, as long as these are ''necessary and reasonable.'' However, in order to encourage on-the-ground restoration, if funding for salaries is requested, it must be used to support staff directly involved in overseeing the accomplishment of the restoration work that will take place under the partnership.

VIII. Matching Requirements

The overall focus of the CRP is to provide seed money to individual projects that leverage funds and other contributions from a broad public and private sector to implement locally important habitat restoration to benefit living marine resources. To this end, applicants seeking national and regional partnerships with the RC are expected to demonstrate a minimum 1:1 non-Federal match. While this is not a requirement, NOAA strongly encourages applicants to leverage as much investment as possible; applicants with less than 1:1 match will not be disqualified. The degree to which cost-sharing exceeds the minimum level, and the source (national/regional versus project-by-project) and nature (cash versus in-kind) of the contribution will be taken into account in the selection of partnerships to be awarded (see Evaluation Criteria section). The match can come from a variety of public and private sources and can include in-kind goods and services. Federal funds may not be considered matching funds. Applicants are permitted to combine contributions from additional non-Federal partners in order to meet the 1:1 match expected to establish a partnership. Applicants whose proposals are selected for habitat restoration partnership funding will be bound by the percentage of cost sharing reflected in the award document signed by the NOAA Grants Officer.

IX. Type of Funding Instrument

For habitat restoration partnerships selected to receive funding through this solicitation, the RC envisions providing funds through cooperative agreements. A cooperative agreement is a legal instrument reflecting a relationship between NOAA and a recipient whenever (1) the principal purpose of the relationship is to provide financial assistance to the recipient and (2) substantial involvement in the project by NOAA is anticipated during performance of the contemplated activity. NOAA may play a substantial role in any or all of the following: (1) Developing national and regional partnerships to promote locally driven habitat restoration activities; (2) conducting cooperative activities with recipients in project identification and ranking; (3) evaluating the performance of restoration projects; and (4) supporting project partners to enhance their effectiveness in meeting stated restoration goals for improving fisheries habitat.

X. Award Period and Partnership Duration

Proposals for national and regional partnerships should cover a project period between 1 and 3 years. Multi-year project period requests may be

funded incrementally on an annual basis, but once awarded, multi-year partnerships will not need to compete for funding in subsequent years. If an application is selected and approved for funding under a partnership, NOAA has no obligation to provide additional funding in connection with this partnership in subsequent years. However, the intention of the Program is to attract and maintain partnerships that will be ongoing and long-lasting. Established partnerships are expected to continue through the duration of the project period. Future opportunities for submitting proposals to the competitive process for developing multi-year, national and regional habitat restoration partnerships are anticipated, but will be dependent on CRP funding levels and on the performance of existing partners to successfully maintain existing partnership activities to identify, develop, evaluate, implement and monitor community-based fisheries habitat restoration projects. Future opportunities to submit competitive applications for establishing national and regional habitat restoration partnerships will not affect existing partnerships provided that all parties involved are satisfied with the performance of the partnership arrangements. Renewal of an award to continue individual partnership arrangements in subsequent years, or to extend the period of performance, is at the total discretion of the Restoration Center Director.

XI. Electronic Access

Information on the Program, including examples of national partnerships and community-based habitat restoration projects that have been funded to date, can be found on the world wide web at *http://www.nmfs.noaa.gov/habitat/restoration*. Application forms and instructions for applicants that wish to respond to this solicitation are also available through this web site, or they can be obtained from the NOAA Restoration Center (see **ADDRESSES**).

XII. Application Process

A NOAA grants application must be filed under the guidelines in this document. Proposal applications must be complete and in accordance with instructions in the standard NOAA Grants Application Package. Each application must include all specified sections as follows: cover sheet (an applicant must use OMB Standard Form 424 as the cover sheet for each project); budget detail (SF 424A and budget justification narrative); grant assurances SF424B and CD-511, and SF-LLL if applicable; and narrative project description (statement of work). Budgets must include a detailed breakdown by category of cost estimates as they relate to specific aspects of the partnership, with appropriate justification for both the Federal and non-Federal shares.

The narrative project description should be no more than 15 double-spaced pages long, in 12 point font, and should give a clear presentation of the proposed partnership. It should identify the problems the partnership will address and the geographic area over which the partnership will operate. The narrative should describe short- and long-term objectives and goals, methods for identifying potential projects, the criteria that will be used for selecting restoration proposals and determining the success of projects implemented at a community level under the partnership, and the relevance of the proposed partnership to enhancing habitat to benefit living marine resources. The narrative also should address a mechanism that partners will use to ensure that all necessary environmental permits and consultations will be secured prior to the use of Federal funds for construction. Additionally, the narrative should identify the anticipated partnership duration, amount and timing of funds requested, potential sources of match, and any restrictions the partner may impose on the further use of Federal funds. For example, if the partner anticipates limiting competition by restricting the level of funding per project, restricting funding to specific project phases, cost categories or to specific recipients, restricting habitat types, organization types or geographic locations from consideration, these restrictions should be clearly detailed in the narrative. It is NOAA's intention to maintain maximum competition and flexibility in the use of Federal restoration funds.

Anticipated project partners other than the applicant should be identified; this is particularly important for those applying to establish regional partnerships. The project narrative should describe the organizational structure of the applicant group(s), detail their qualifications and identify proposed partnership staff. In general, applications should clearly demonstrate the broad-based benefits expected to habitats, and how these benefits will be achieved through partnership activities with the RC. Partnerships that emphasize a singular restoration component, such as only outreach, monitoring, or program coordination are discouraged, as are applications that propose partnerships to expand an organization's day-to-day activities that have limited NOAA involvement, or primarily support administration, salaries, overhead and travel.

Applications should not be bound or stapled and should be printed on one side only. Incomplete applications will be returned to the applicant. Three copies (one signed original and two signed copies) of each application are required and must be submitted to the NOAA Restoration Center (see **ADDRESSES**).

XIII. Indirect Costs

The budget may include an amount for indirect costs if the applicant has an established indirect cost rate with the Federal government. The total dollar amount of indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award. However, the Federal share of the indirect costs may not exceed 25 percent of the proposed request for Federal support. Applicants with indirect cost rates above 25 percent may use the amount above the 25-percent level as part of the non-Federal share. A copy of the approved, currently negotiated Indirect Cost Agreement with the Federal Government must be included in the application. If the applicant does not have a current negotiated rate and plans to seek reimbursement for indirect costs, documentation necessary to establish a rate must be submitted within 90 days of receiving an award.

XIV. Partnership Selection Process

Applications will be screened to determine if proposals are complete and in accordance with instructions detailed in the standard NOAA Grants Application Package. Eligible restoration partnership proposals will undergo a technical review, rating, and selection process. Proposals will be reviewed by NOAA field and headquarters staff to determine how well applications meet the stated aims of the CRP, and how well the proposal meets the goals of the NOAA RC for establishing partnerships, using the evaluation criteria that follow. Reviewers will make recommendations to the NOAA Restoration Center Director regarding which proposals are suitable for further consideration. As appropriate during this process, the NOAA Restoration Center will solicit individual technical evaluations of each proposed partnership and may consult with other NOAA offices, the NOAA Grants Management Division, the U.S. Department of Commerce, the Regional

Fishery Management Councils, other Federal and state agencies, such as state coastal management agencies and state fish and wildlife agencies, and private and public sector restoration experts who have knowledge of a specific applicant, program or its subject matter.

Applications for proposed partnerships will be evaluated by individual technical reviewers according to the criteria and weights described in this solicitation. The proposals will be rated, and reviewer's comments will be presented to the Director of the NOAA Restoration Center. The Director, in consultation with Program staff, may take into account the following program priorities: (a) Diversity of geographic location and habitat types to be restored; (b) diversity of applicants; (c) degree of duplication of proposed partnership activities with other partnerships that are currently in effect or approved for funding by NOAA and other Federal agencies; (d) factors that may not be known by technical reviewers that would affect achievement of the CRP's objectives as described in this announcement and the Program Guidelines (65 FR 16890, March 30, 2000); and (e) the availability of funds. Partnership offers may not be extended to all applicants that score well. The Director, in consultation with Program staff, will select the partnerships to be established with the NOAA Restoration Center and determine the amount of funds available for each approved partnership.

Applicants may be asked to modify objectives, work plans, or budgets prior to final approval of an award. The exact amount of funds to be awarded, the final scope of activities, the partnership duration, and specific NOAA cooperative involvement with the activities proposed under selected partnerships will be determined in pre-award negotiations among the applicant, the NOAA Grants Office, and the NOAA Program staff. Partnership activities should not be initiated in expectation of Federal funding until a notice of award document is received from the NOAA Grants Office.

Successful applicants will be selected to establish habitat restoration partnerships with the RC beginning March 26, 2001, and each month thereafter until the close of this solicitation. Notification of approved partnership status will take place approximately 60 days after the cooperative agreement application is forwarded to the NOAA Grants Management Division, when all NOAA/applicant negotiations of cooperative activities have been completed. Applicants should consider this selection and processing time in developing requested start dates for proposed partnership activities.

XV. Evaluation Criteria

Reviewers will assign scores to proposals ranging from 0 (unacceptable) to 100 (excellent) points based on the following five evaluation criteria and respective weights:

(1) Potential of the Partnership to Benefit Living Marine Resources (20 percent)

Proposals will be evaluated on (a) the national or regional extent of proposed habitat restoration activities and (b) the types of habitats that will be restored under the partnership. In particular, NOAA will evaluate proposals based on the potential of the applicant and proposed magnitude of the partnership to restore, protect, conserve, and enhance habitats and ecosystems vital to self-sustaining populations of living marine resources under NOAA Fisheries stewardship.

(2) Partner Strengths and Experience (20 percent)

The applicant should demonstrate its abilities to effectively and efficiently manage a significant number of projects simultaneously. Applicants will be evaluated on the qualifications, past experience, and potential of the project partners to effectively identify, develop, select, manage and oversee all project phases, particularly financial and administrative management of sub-awards, and the ability to ensure scientifically-based monitoring is implemented on individual projects funded through sub-awards.

(3) Adequacy of Partnership Plan (20 percent)

The partnership plan will be evaluated on: (a) the adequacy of proposed strategies for coordination with NOAA in all phases of project selection, design, implementation and monitoring; (b) the degree to which the selection process is competitive, and ensures that sub-awards are made according to technical evaluations and identified weighting factors consistent with NOAA priorities; (c) the ability of the partner to foster restoration activities under the partnership that will be consistent with regional or community planning processes, or other stakeholder mechanisms used to prioritize projects; (d) the degree to which projects selected for sub-awards are expected to have long-lasting results that will be sustained into the future through conservation easements or similar protection; (e) the ability to advance the partnership and increase awareness of the importance of habitat restoration; and (f) the ability to provide assurance that projects implemented through sub-awards will meet all Federal and state environmental laws and obtain applicable permits and consultations.

(4) Ability to Engage Communities in Habitat Restoration (20 percent)

Proposals will be evaluated on the suitability of proposed actions to involve citizens and broaden their participation in habitat restoration projects. Proposals must include information on how the selection of projects under the partnership with NOAA will promote significant community involvement in fisheries habitat restoration and stewardship. Community participation may include: (a) hands-on training and restoration activities undertaken by volunteers; (b) sponsorship from local entities, either through in-kind goods and services (earth moving, technical expertise, conservation easements) or cash contributions; (c) public education and outreach; (d) support from state and local governments; and (e) ability to achieve long-term stewardship for restored resources and to generate a community conservation ethic.

(5) Cost-effectiveness and Budget Justification (20 percent)

Proposals will be evaluated on: (a) the percentage of funds that will be dedicated to all phases of restoration project implementation including physical, on-the-ground restoration compared to the percentage that is for administration and overhead to be used by the partner; (b) the overall leverage of NOAA funds anticipated, including the amount of cash match; (c) the ability to which the partnership and projects selected are likely to catalyze future restoration and protection of living marine resources; and (d) the ability of the applicant organization to demonstrate that a significant benefit will be generated for a reasonable cost. NOAA will expect cost-sharing to leverage funding and to further encourage partnerships among government, industry, and academia.

XVI. Other Requirements

Federal Policies and Procedures

Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures application to Federal financial assistance awards.

Past Performance

Any first-time applicant for Federal grant funds under this announcement is subject to a pre-award accounting survey prior to execution of the award. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Pre-award Activities

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that they may have received, there is no obligation on the part of NOAA to cover pre-award costs.

No Obligation of Future Funding

If an application is selected for funding, NOAA has no obligation to provide additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Restoration Center Director.

Delinquent Federal Debts

No award of Federal funds shall be made to an applicant or to its subrecipients who have any outstanding delinquent Federal debt or fine until:

1. The delinquent account is paid in full;
2. A negotiated repayment schedule is established, and at least one payment is received; or
3. Other arrangements are made that are satisfactory to the Department of Commerce.

Name Check Review

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal whether key individuals associated with the applying organization have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the applicant's management, honesty, or financial integrity. Potential non-profit and for-profit recipients may also be subject to reviews of Dun and Bradstreet data or other similar credit checks.

Primary Applicant Certifications

All primary applicants must submit a completed Form CD 511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying.'' The following explanations are hereby provided:

1. *Nonprocurement debarment and suspension*. Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension,'' and the related section of the certification form prescribed earlier applies;
2. *Drug-free workplace*. Grantees (as defined at 15 CFR 26.605) are subject to 15 CFR 26, subpart F, ''Government-wide Requirements for Drug-Free Workplace (Grants),'' and the related section of the certification form prescribed earlier applies; also please enter the Principal Place of Performance, that is, where the work will be done.
3. *Anti-Lobbying*. Persons (as defined at 15 CFR 28.105) are subject to the lobbying provision of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, contracts for more than $100,000, and loans and loan guarantees for more than $150,000.
4. *Anti-Lobbying disclosures*. Any applicant who has paid or will pay for lobbying using any funds must submit a Form SF-LLL, ''Disclosure Form to Report Lobbying,'' as required under 15 CFR part 28, appendix B.

Lower Tier Certifications

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure Form SF-LLL ''Disclosure of Lobbying Activities.'' Form CD-512 is intended for the use of recipients and should not be transmitted to DOC. An SF-LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

False Statements

A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Intergovernmental Review

Applications under this program are subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

American-made Equipment and Products

Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program.

Classification

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or by any other law for this notice concerning grants, benefits, and contracts. Furthermore, a regulatory flexibility analysis is not required for the purposes of the Regulatory Flexibility Act.

This action has been determined to be ''not significant'' for purposes of Executive Order 12866.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid OMB control number.

This notice contains collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B and SF-LLL have been approved by OMB under the respective control numbers 0348-0043, 0348-0044, 0348-0040, and 0348-0046.

Dated: February 5, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–3390 Filed 2–8–01; 8:45 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 01–C0004]

Hanro, USA, Inc., a Corporation, Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(f). Published below is a provisionally-accepted Settlement Agreement with Hanro, USA, Inc., a corporation, containing a civil penalty of $150,000.

DATES: Any Interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by February 26, 2001.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 01–C0004, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Dennis C. Kacoyanis, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0626, 1346.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: February 6, 2001.

Sadye E. Dunn,

Secretary.

Settlement Agreement and Order

1. This Settlement Agreement and Order, entered into between HANRO USA, INC. (hereinafter, ''HANRO USA'' or ''Respondent''), a corporation, and the staff of the Consumer Product Safety Commission (hereinafter, ''staff''), pursuant to the procedures set forth in 16 C.F.R. 1118.20, is a compromise resolution of the matter described herein, without a hearing or determination of issues of law and fact.

I. The Parties

2. The ''staff'' is the staff of the Consumer Product Safety Commission (hereinafter, ''Commission''), and independent federal regulatory commission of the United States government established pursuant to section 4 of the Consumer Product Safety Act (CPSA), as amended, 15 U.S.C. 2053.

3. Respondent HANRO USA, INC. is a wholly owned subsidiary of HANRO A.G. (hereinafter, ''HANRO of Switzerland''), a Swiss corporation located in Liestal, Switzerland. HANRO USA is located at 40 East 34th Street, Suite 207, New York, NY 10016. HANRO USA is an importer and wholesaler of women's and men's underwear and robes.

II. Allegations of the Staff

A. Violations of the Flammable Fabrics Act

4. In 1998, HANRO of Switzerland manufactured Ladies' Fleece Robes, style number 6812, 6813, and 6814, 90% cotton/10% polyester fleece fabric.

5. In September and October of 1998, Respondent imported into the United States 1,261 of these fleece robes.

6. These fleece robes were subject to the Standard for the Flammability of Clothing Textiles (hereinafter, ''Clothing Standard''), 16 CFR part 1610, issued under section 4 of the Flammable Fabrics Act (FFA).

7. Neither before importation, nor before sale of these fleece robes, did Respondent verify whether they complied with the requirements of the Clothing Standard.

8. Respondent sold these fleece robes to its retail customers from September 1998 through December 1998.

9. In 1999, HANRO of Switzerland manufactured Ladies' Fleece Robes, style numbers 6314 and 6315 made from essentially the same fleece fabric as the fleece robes identified in paragraph 4 above.

10. On or about September 15, 1999, Respondent received flammability test results for the fleece robes identified in paragraph 9 above. The test results showed that these fleece robes were dangerously flammable and unsuitable for clothing because of their rapid and intense burning and, therefore, violated the Clothing Standard.

11. Between October 22, 1999 and November 3, 1999, Respondent imported into the United States 870 of the fleece robes identified in paragraph 9 and 10 above.

12. Between October 28, 1999 and November 13, 1999, Respondent sold the fleece robes identified in paragraphs 9 and 11 above to its retail customers.

13. On December 5, 1999, Respondent received an incident report involving an accidental ignition of one of these fleece robes. According to the report, the victim wore the rob while making tea, the sleeve caught fire, and the victim received burns to her hair and wrenched her back while removing the flaming robe.

14. On December 7, 1999, Respondent reported the incident to the Commission.

15. After reporting the incident to the Commission, Respondent admitted its 1998 importation and sale of the fleece robes identified in paragraph 4 above.

16. In January 2000, Respondent conducted flammability testing for the first time on the fleece robes imported in 1998. The test results showed that those fleece robes were dangerously flammable and unsuitable for clothing because of their rapid and intense burning and, therefore, violated the Clothing Standard.

17. Respondent knowingly imported into the United States and sold in commerce the fleece robes identified in paragraphs 4 and 9 above that violated the Clothing Standard, as the term ''knowingly'' is defined in section 5(e)(4) of the FFA, 15 U.S.C. 1194(e)(4), in violation of section 3 of the FFA, 15 U.S.C. 1192. A knowing violation of this provision subjects Respondent to civil penalties under section 5(e)(1) of the FFA, 15 U.S.C. 1194(e)(1).

B. Violations of the Consumer Product Safety Act

18. The allegations contained in paragraphs 4 through 17 above are realleged.

19. Respondent's fleece robes are ''consumer products'' and Respondent is an ''importer'' and therefore, a ''manufacturer'' of ''consumer products'' which are ''distributed in commerce'' as those terms are defined in sections 3(a)(1), (4), and (11) of the CPSA, 15 U.S.C. 2052(a)(1), (4), and (11).

20. Section 15(b) of the CPSA, 15 U.S.C. 2064(b) requires every manufacturer of a consumer product distributed in commerce, who obtains information which reasonably supports the conclusion that such product contains a defect which could create a substantial product hazard or creates an unreasonable risk of serious injury or death to immediately inform the Commission of such defect, or of such risk.

21. Respondent knew or should have known that the fleece robes identified in paragraphs 4 and 9 above contained a defect which could create a substantial product hazard or created an unreasonable risk of serious injury or death. These fleece robes were highly flammable and were likely to cause severe burn injuries or death and, therefore, violated the Clothing Standard. Respondent did not immediately notify the Commission of the risk presented by these fleece robes.

22. Only after receiving a report of a fire incident caused by one of these fleece robes, did Respondent notify the Commission pursuant to section 15(b) of the CPSA, *id.*

23. Respondent knowingly failed to file a timely report under section 15(b) of the CPSA, *id,* as the term ''knowingly'' is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d), in violation of section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4). A knowing violation of this provision subjects Respondent to civil penalties under section 20 of the CPSA, 15 U.S.C. 2069.

III. Response of Respondent

24. Respondent denies the staff's allegations set forth in paragraphs 4 through 23 above.

25. Respondent denies that it knowingly violated either the Flammable Fabrics Act or the Consumer Product Safety Act.

26. On its own initiative, Respondent reported the incident that is the basis of these proceedings, and, beginning on December 8, 1999, voluntarily undertook a recall of Ladies' Fleece Robes, style numbers 6314 and 6315. Beginning on January 7, 2000, Respondent voluntarily initiated a recall of Ladies' Fleece Robes, style numbers 6812, 6813, and 6814. Respondent voluntarily offered a substantial gift certificate to consumers to encourage returns, voluntarily undertook a second round of retailer notices when the initial term of the recalls expired, voluntarily extended the term of its recalls and consumer incentives through December 31, 2000, and voluntarily destroyed or identified for destruction virtually all the robes returned under the recall.

IV. Agreement of the Parties

27. The Commission has jurisdiction over Respondent and the subject matter of this Settlement Agreement and Order under the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051 *et seq.*; the Flammable Fabrics Act (FFA), 15 U.S.C. 1191 *et seq.*; and the Federal Trade Commission Act (FTCA), 15 U.S.C. 41 *et seq.*

28. This Agreement is entered into for settlement purposes only and does not constitute an admission by Respondent or a determination by the Commission that Respondent knowingly violated the FFA's Clothing Standard and/or the CPSA's Reporting Requirement.

29. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(f). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order will be deemed to be finally accepted on the 16th day after the date it is published in the **Federal Register**.

30. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final Order, Respondent knowingly, voluntarily, and completely waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenges or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether Respondent failed to comply with the FFA, as alleged, or the CPSA, as alleged, (4) to a statement of findings of facts and conclusions of law, and (5) to any claims under the Equal Access to Justice Act.

31. In settlement of the staff's allegations, Respondent agrees to pay a $150,000.00 civil penalty as set forth in the attached Order incorporated herein by reference.

32. The Commission may publicize the terms of this Settlement Agreement and Order.

33. Upon final acceptance by the Commission of this Settlement Agreement and Order, the Commission shall issue the attached Order.

34. A violation of the attached Order shall subject Respondent to appropriate legal action.

35. Agreements, understandings, representations, or interpretations made outside this Settlement Agreement and Order may not be used to vary or contradict its terms.

36. The provisions of this Settlement Agreement and Order shall apply to, and be binding upon, Respondent and each of its shareholders, officers, directors, employees, agents, successors, assigns, and representatives, directly or through any corporation, subsidiary, division, or other business entity, or through any agency, device, or instrumentality.

Respondent Hanro USA, Inc.

Dated: December 26, 2000.

Niki Sachs,
President and Chief Executive Officer, Hanro USA, Inc., 40 East 34th Street, New York, NY 10016.

Commission Staff

Alan H. Schoem,
Assistant Executive Director, Consumer Product Safety Commission, Office of Compliance, Washington, DC 20207–0001.

Eric L. Stone,
Director, Legal Division, Office of Compliance.

Dated: January 3, 2001.

Dennis C. Kacoyanis,
Trial Attorney, Legal Division, Office of Compliance.

Order

Upon consideration of the Settlement Agreement entered into between Respondent Hanro USA, Inc. (hereinafter, ''Respondent''), a corporation, and the staff of the Consumer Product Safety Commission (''Commission''); and the Commission having jurisdiction over the subject matter and Respondent; and it appearing that the Settlement Agreement and Order is in the public interest, IT IS

Ordered, that the Settlement Agreement be and hereby is accepted, and it is

Further Ordered, that upon final acceptance of the Settlement Agreement and Order, Respondent Hanro USA, Inc. shall pay to the United States Treasury a civil penalty in the amount of ONE HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS ($150,000.00) in three (3) payments of FIFTY THOUSAND AND 00/100 DOLLARS ($50,000.00) each. The first payment of FIFTY THOUSAND AND 00/100 DOLLARS ($50,000.00) shall be paid within twenty (20) days after service of the Final Order of the Commission (hereinafter, ''the anniversary date''). The second payment of FIFTY THOUSAND AND 00/100 DOLLARS ($50,000.00) shall be paid within nine (9) months of the anniversary date. The third payment shall be paid within eighteen (18) months of the anniversary date. Upon the failure of Respondent Hanro USA, Inc. to make a payment or upon the making of a late payment by Respondent Hanro USA, Inc. (a) the entire amount of the civil penalty shall be due and payable, and (b) interest on the outstanding balance shall accrue and be paid at the federal legal rate of interest under the provisions of 28 U.S.C. §§ 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 6th day of February, 2001.

By Order of the Commission.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

[FR Doc. 01–3408 Filed 2–8–01; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Common Request

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Air Force announces the proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the

proposed information collection; and (c) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 10, 2001.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to AFSPC CSS/SCFB, 150 Vandenberg St, Suite 1105, ATTN: SMSgt Jack Kretchek, Peterson AFB, CO 80914–4730.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call AFSPC CSS Force Application and Sustainment, (719) 554–4057.

Title, Associated Form, and OMB Number: Intercontinental Ballistic Missile Hardened Intersite Cable Right-of-Way Landowner/Tenant Questionnaire, AF Form 3951, OMB Number 0701–0141.

Needs and Uses: The information collection requirement is used to report changes in ownership/lease information, conditions of missile cable route and associated appurtenances, and projected building/excavation projects. The information collected is used to ensure system integrity and to maintain a close contact public relations program with involved personnel and agencies.

Affected Public: Individuals or households; Farms.

Number of Respondents: 4,000.

Responses per Respondent: 1.

Average Burden per Response: 15 Minutes.

Frequency: Biennially.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are landowners/tenants. This form collects updated landowner/tenant information as well as data on local property conditions which could adversely affect the Hardened Intersite Cable System (HICS) such as soil erosion, projected/building projects, excavation plans, etc. This information also aids in notifying landowners/tenants when HICS preventive or corrective maintenance becomes necessary to ensure uninterrupted Intercontinental Ballistic Missile command and control capability.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–3376 Filed 2–8–01; 8:45am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Department of the Army

Record of Decision (ROD) of the Final Environmental Impact Statement (FEIS) on the Disposal and Reuse of the Stratford Army Engine Plant (SAEP), Stratford, CT

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announced the availability of the ROD of the FEIS on the Disposal and Reuse of the Stratford Army Engine Plant, in accordance with the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended.

ADDRESSES: A copy of the ROD may be obtained by writing to Mrs. Shirley Vance, U.S. Army Materiel Command, ATTN: AMCQMA, 5001 Eisenhower Avenue, Alexandria, VA 22333–0001. Copies of the FEIS may be obtained by writing to Mr. Joe Hand, Corps of Engineers, Mobile District, ATTN: PD–EC, P.O. Box 2288, Mobile, AL 36628–0001.

FOR FURTHER INFORMATION CONTACT: Mrs. Shirley Vance by facsimile at (703) 617–6447.

SUPPLEMENTARY INFORMATION: In the ROD, the Army concludes that the FEIS adequately addresses the impacts of property disposal and documents its decision to transfer the property as encumbered. The ROD concludes that approximately 71 of the 75-acre SAEP property will be conveyed subject to restrictions, identified in the FEIS, that relate to the following: asbestos-containing material, an easement for avigation, an easement for public access, other easements and rights-of-way, floodplains, a groundwater use prohibition, historic resources, land use restrictions, lead-based paint, remedial actions, and wetlands. The Army's intent under the ROD is to transfer approximately 71 acres to the SAEP Local Reuse Authority (LRA). The Army may subsequently decide to transfer approximately 4 acres of the SAEP property to the City of Bridgeport for airport purposes. If the City of Bridgeport is unable to acquire the necessary permits and approvals for their proposed activity on the approximately 4-acre parcel within a reasonable period of time after the conveyance of the property to the SAEP LRA, the Army will, consistent with its disposal authorities, convey the 4-acre parcel to the SAEP LRA. Approximately 5 acres of the total acreage being transferred to the LRA will have avigation restrictions for height and electromagnetic, smoke and light emissions. The Army will impose deed restrictions or other requirements to ensure safety and protection of human health and the environment.

The Army has taken all practicable measures to avoid or minimize environmental harm associated with its preferred alternative of encumbered property disposal. Mitigation measures for reuse activities are identified in the FEIS.

Dated: February 5, 2001.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA(I&E).

[FR Doc. 01–3330 Filed 2–8–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 13 February 2001.

Time of Meeting: 0830–1700.

Place: 11th floor Conf. Room, Presidential Towers, Crystal City, Virginia.

Agenda: The Army Science Board's (ASB) Ad Hoc Study on ''Adapting Future Wireless Technologies'' will have their kickoff meeting to outline study goals, breakout into specific panels, and schedule meetings. There will be NO outside briefings at this kickoff meeting. If you require additional information or have any questions, please call Mr. Jeff Ozimek, the Study Staff Assistant on (732) 532–5496.

Wayne Joyner,

Program Support Specialist, Army Science Board.

[FR Doc. 01–3327 Filed 2–8–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP01–76–000, CP01–77–000, and RP01–217–000]

Cove Point LNG Limited Partnership; Notice of Application and Notice of Rate Settlement

February 5, 2001.

Take notice that on January 30, 2001, Cove Point LNG Limited Partnership (Cove Point), P.O. Box 1396, Houston,

Texas 77251, filed applications pursuant to Section 7(c) [Docket No. CP01–76–000] and Section 3(a) [Docket No. CP01–77–000] of the Natural Gas Act (NGA) seeking approval to construct certain new facilities, and to reactivate and operate certain existing facilities at Cove Point's liquefied natural gas (LNG) terminal located in Calvert County, Maryland. Cove Point proposes to provide open access LNG tanker storage services to customers with waterborne supplies of LNG. Cove Point also filed in Docket No. RP01–217–000, a Stipulation and Agreement (Rate Settlement) pursuant to Rule 602 of the Commission's Rules (18 CFR 385.602) which was reached among itself, certain existing LNG peaking and transportation customers, and the new proposed waterborne LNG customers. The Rate Settlement would set initial rates for proposed new customers pursuant to Section 7(c) of the NGA, and would change existing rates for existing customers pursuant to Section 4 of the NGA. Take notice of the special Rule 602 comment procedures in this case, as set forth below.

The filing may be viewed at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Questions regarding the details of this proposed project and Rate Settlement should be directed to Virginia C. Levenback, Senior Counsel, Cove Point LNG Limited Partnership and Williams Cove Point LNG Company, L.L.C., P.O. Box 1396, Houston, Texas 77251–1396; Telephone: (713) 215–2810.

In the late 1970's and through 1980, the LNG facilities now owned by Cove Point were used for waterborne, imported LNG, but LNG imports ceased and the facilities were ''mothballed''. In 1994, Cove Point was authorized by the Commission to reactivate the mothballed onshore LNG facilities and to construct an LNG liquefaction unit for the purpose of storing domestic natural gas during the summer for use at peak times during the winter. Now Cove Point seeks to reactivate the offshore LNG facilities and build additional onshore facilities in order to provide waterborne LNG tanker services once again. These waterborne shipments of LNG will in all likelihood be imported, but the importation of LNG, *per se*, is subject to the jurisdiction of the Department of Energy under Section 3 of the NGA (10 CFR 590).

Cove Point requests Commission approval to repair, improve, upgrade, or replace various existing unloading, control, LNG flow, vaporization, and safety systems. Cove Point is seeking a certificate under Section 7(a) of the NGA, and Part 157 of the Commission's regulations, (18 CFR Part 157) to reactivate, repair or replace the following existing facilities:

Refurbishment/Replacement of unloading arms;
Refurbishment of offshore control building;
Refurbishment/upgrade of hazard detectors;
Refurbishment/upgrade of fire detectors;
Refurbishment/upgrade of electrical systems;
Refurbishment/upgrade of offshore fire water systems;
Refurbishment/upgrade of second stage send out pumps;
Refurbishment of cold blowers;
Refurbishment of insulator systems;
Upgrade and expand office buildings;
Refurbishment of fuel gas system and heaters;
Upgrade fire protection on all LNG storage tanks; and
Refurbishment of vaporizers (including the replacement of tube bundles).

Cove Point is also seeking a certificate to construct the following new facilities:

Installation of a fifth new 850,000-barrel LNG storage tank (2,800,000 Dth vapor equivalent);
Installation of Btu reduction facility; and
Installation of a Cove Point metering station.

Cove Point states that the proposed reactivation of the LNG terminalling operation is estimated to cost about $65 million, and the construction of the fifth storage tank is estimated to cost about $38 million.

Cove Point seeks approval to provide the LNG tanker services on a firm and interruptible basis pursuant to Part 284 of the Commission's regulations and under proposed new Rate Schedules LTD–1 and LTD–2, respectively. Cove Point proposes to offer open-access, non-discriminatory LNG tanker services, which would include the receipt of waterborne LNG, LNG storage, LNG vaporization, and pipeline transportation of vaporized LNG into the interstate pipeline grid through Cove Point's pipeline's existing interconnections with Dominion Transmission Inc., and Columbia Gas Transmission Company in Loudoun County, Virginia.

Cove Point says that it had an open season in early 2000 to offer LNG tanker services and as a result it executed binding precedent agreements for one hundred percent (100%) of the firm LNG tanker services that was offered at the maximum rate and for twenty year primary terms with three customers. The three customers are BP Energy Company, Shell NA LNG, Inc., and El Paso Merchant Energy, L.P. Cove Point states that a firm LNG tanker services customer will contract for and pay a monthly reservation fee based upon its Maximum Daily Delivery Quantity (MDDQ). The total available MDDQ offered by Cove Point in its open season was 750,000 Dth per day, and the three winning bidders were awarded the entire available delivery quantity, each receiving 250,000 Dth per day. Cove Point states that the customers are allocated LNG storage capacity based on fixed ratio of storage capacity to contracted MDDQ.

Cove Point currently provides 10-day, 5-day and 3-day firm LNG peaking services under Rate Schedules FPS–1, FPS–2, and FPS–3, respectively, and firm and interruptible transportation services under Rate Schedules FTS and ITS. The peaking services now consist of the receipt and liquefaction of domestic natural gas during a summer injection season (April 16–December 14), storage of the LNG, vaporization of the LNG and delivery of the natural gas during a winter withdrawal season (December 15–April 15).

After approval of the waterborne LNG reactivation and the firm and interruptible LNG tanker services under proposed new Rate Schedules LTD–1 and LTD–2, Cove Point will continue to provide 3-day, 5-day and 10-day peaking services to its peaking customers under existing Rate Schedules FPS–1, FPS–2 and FPS–3. With the commencement of waterborne LNG receipts, however, Cove Point will operate its facilities on an integrated basis, which will enable Cove Point to serve existing peaking and transportation customers at lower rates due to the expected discontinued operation of its LNG liquefaction facilities. Those reduced rates will be placed into effect upon the commencement of the proposed LNG tanker services pursuant to the terms of a Stipulation and Agreement (Rate Settlement) among Cove Point, certain of the existing peaking and transportation customers and three new LNG tanker services customers, all as identified in the Rate Settlement. The Rate Settlement is submitted pursuant to Rule 602 of the Commission's Rules of Practice and Procedure (18 CFR 385.602).

Cove Point states that the Rate Settlement resolves certain non-environmental issues related to this application, including agreed-upon rates for both LNG tanker services, peaking services, and transportation services. The Rate Settlement addresses how Cove Point's existing and proposed tanker discharge, storage and

transportation capacity and the costs the facilities that create such capacity will be allocated between its existing and new customers. The specific rates for new and existing customers proposed in the Rate Settlement are listed as an appendix to the Rate Settlement (Exhibit U of Cove Point's application), and in Exhibit P of Cove Point's application. The Rate Settlement also allows for inclusion of the costs of for certain pipeline line enhancements listed as an appendix to the Rate Settlement, including the planned construction of an interconnection with Transcontinental Gas Pipe Line Corporation in Fairfax County, Virginia.

Cove Point's application also includes a *pro forma* copy of the revised FERC Gas Tariff under which Cove Point will provide firm and interruptible LNG tanker services on an open access basis and the continuance of its LNG peaking and transportation services. The proposed *pro forma* tariff includes new rate schedules for firm and interruptible LNG tanker discharging services, minor conforming changes to the rate schedules of existing services, changes to the General Terms and Conditions and conforming changes to *pro forma* service agreements. Changes to Cove Point's currently effective tariff sheets are reflected in the redlined version of the proposed tariff which is included in Exhibit P of Cove Point's application.

In addition, Cove Point seeks authorization to construct, site, and modify the import facilities at the terminal in Calvert County, Maryland under Section 3(a) of the NGA, and Part 153 of the Commission's regulations, 18 CFR Part 153.

Cove Point requests that the Commission issue a final order granting the requested certificates, approvals and authorizations by July 25, 2001. Cove Point states that this proposed schedule will enable it to refurbish and reactivate the above listed LNG facilities by April 1, 2002, and to construct and place in service the proposed fifth LNG storage tank at the terminal by September 1, 2003.

There are three ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before February 27, 2001, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have its comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

A third way to participate is to file initial and/or reply comments about the Rate Settlement under Rule 602 of the Commission's Rules of Practice and Procedure (18 CFR 385.602). However, in this case, because of the commonality of Cove Point's requests in the above referenced dockets, the prescribed time for such initial and reply comments under Section 385.602(f)(2) is hereby set such that initial comments on the Rate Settlement must be filed with the Secretary on or before February 27, 2001, and reply comments must be filed with the Secretary on or before March 14, 2001. The date of March 14, 2001, should coincide with the date by which any appropriate answers to motions to intervene or other motions must be filed in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.213).

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments and protests may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying the certificate and authorization, and accepting or rejecting the Rate Settlement will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–3349 Filed 2–8–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–39–000]

Duke Energy McClain, L.L.C.; Notice of Amendment of Application for Commission Determination of Exempt Wholesale Generator Status

February 5, 2001.

Take notice that on January 18, 2001, Duke Energy McClain, LLC (Duke McClain), tendered for filing an amendment with the Federal Energy Regulatory Commission to its Application for Commission

Determinations of Exempt Wholesale Generator Status which was filed on December 1, 2000, in the above-referenced docket.

Duke McClain requests that the reference to ''gas storage'' activities be stricken from its Application. Duke McClain has also requested expedited consideration of its Application as modified.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments 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). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before February 15, 2001, and must be served on the applicant. 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 or on the internet at *http://www.ferc.fed.us/online/rims.htm* (please call (202) 208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–3339 Filed 2–8–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–140287; FRL–6769–6]

Access to Confidential Business Information by Chemical Abstract Services

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor Chemical Abstract Services (CAS) of Columbus, Ohio access to information which has been submitted to EPA under sections 5 and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA under sections 5 and 8 of TSCA occurred as a result of an approved waiver dated September 29, 2000, which requested granting CAS immediate access to sections 5 and 8 of TSCA CBI. This waiver was necessary to allow CAS to provide technical assistance in developing and operating the TSCA Chemical Substance Inventory.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara A. Cunningham, Acting Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to ''those persons who are or may be required to conduct testing of chemical substances under the Toxic Substances Control Act (TSCA).'' Since other entities may also be interested, 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 technical person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

III. What Action is the Agency Taking?

Under contract number 68–W–00–127, contractor CAS, of 2540 Olentangy River Road, P.O. Box 3012, Columbus, OH, will assist the Office of Pollution Prevention and Toxics (OPPT) by providing technical assistance in developing and operating the TSCA Chemical Substance Inventory.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–W–00–127, CAS will require access to CBI submitted to EPA under sections 5 and 8 of TSCA to perform successfully the duties specified under the contract.

CAS personnel will be given access to information submitted to EPA under sections 5 and 8 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 5 and 8 of TSCA that EPA may provide CAS access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and at CAS' site located at 2540 Olentangy River Road, Columbus, OH.

CAS will be authorized access to TSCA CBI at EPA Headquarters and at CAS' site located at 2540 Olentangy River Road, Columbus, OH, in accordance with the EPA *TSCA Confidential Business Information Security Manual*.

Clearance for access to TSCA CBI under this contract may continue until September 30, 2005.

CAS personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Access to confidential business information.

Dated: January 31, 2001.

Deborah A. Williams,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–3383 Filed 2–8–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6615–4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 2000 (65 FR 20157).

Draft EISs

ERP No. D–BOP–F80001–ID Rating EC2, Terre Haute United States Penitentiary (USP), Proposal to

Construct and Operate 960 Beds Facilities along with a Special Confinement Unit of 100–120 Beds to Alleviating Overcrowding, Vigo County, Terra Haute, ID.

Summary

EPA requested that BOP fully address: (1) the project's purpose and need, (2) the cumulative impacts on the combined sewer system, (3) provide an analysis of all future waste streams and the steps necessary to minimize the environmental impacts of those waste streams, and (4) clarify wetland permit requirements with the ACOE.

ERP No. D–GSA–L81013–OR Rating EC2, Eugene/Springfield New Federal Courthouse, Construction, Lane County, OR.

Summary

EPA expressed concerns regarding the environmental costs associated with Alternative 3. Alternative 2 seems to have the fewest constraints and the proposed action could potentially enhance the appeal and utility of the area considerably over its current condition. EPA requested that more information about the status of historic facilities and site contamination be provided.

ERP No. D–JUS–G81009–TX Rating LO, Immigration and Naturalization Service (INS) Detention Facility Construction in the Houston Area, TX.

Summary

EPA expressed no objections to the selection of the preferred alternative.

ERP No. D–TVA–E06020–MS Rating EC2, Kemper County Combustion Turbine Plant, Construction and Operation, Addition of Electric General Peaking Capacity at Greenfield Sites, NPDES Permit, Kemper County, MS.

Summary

EPA expressed concerns regarding potential air quality, wetland, environmental justice and induced development impacts.

ERP No. DR–COE–C36103–NY Rating EC2, Sauquoit Creek Flood Control Project, Significant Revisions Concerning Old Project Descriptions, Alternatives Considered and New Project and Original Project Comparisons of Environmental Impacts, Sauquoit Creek Basin, Whitesboro, Oneida County, NY.

Summary

EPA expressed concerns regarding the adequacy of the mitigation proposed for the loss of wetlands and other aquatic habitat values.

Final EISs

ERP No. F–COE–C39014–NJ, Raritan Bay and Sandy Hook Bay, Hurricane and Storm Damage Reduction Project, Flood Control and Storm Damage Protection, Port Monmouth, Middletown Township, Monmouth County, NJ.

Summary

The Final EIS did not adequately address EPA's concerns regarding the wetland mitigation proposal. EPA recommended that the ROD include a commitment to prepare a detailed mitigation plan that addresses EPA's concerns.

ERP No. F–COE–E35084–NC, Randleman Lake and Dam Project, Construction, Piedmont Triad Regional Water Authority (PTRWA), Deep River, Guilford and Randolph Counties, NC.

Summary

EPA requested that the Record of Decision include requirements for water quality monitoring and fee transfer of the Cone's Folly site to an appropriate state or federal agency or land conservancy organization. EPA also noted a preference for wetland mitigation plans that use more natural stream restoration practices where practicable, and advised that created wetlands may not provide treatment areas for wastewater and stormwater.

Dated: February 6, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–3406 Filed 2–8–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6615–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 www.epa.gov/oeca/ofa

Weekly receipt of Environmental Impact Statements

Filed January 29, 2001 Through February 02, 2001

Pursuant to 40 CFR 1506.9.

EIS No. 010029, Draft EIS, AFS, ID, MT, Lookout Pass Ski and Recreation Area (LPSRA) Expansion Project, Implementation, Amendment to the Existing Special Use Permit, NPDES Permit and COE Section 404 Permit, Idaho Panhandles National Forests, Coeur d'Alene River Range District, ID and MT, Due: March 26, 2001, Contact: Kerry Arneson (208) 769–3000.

EIS No. 010030, Final EIS, FHW, MD, US–301 Transportation Study, Improvements, from US–301 North of US–301/MD–5 Interchange at T.B. to US 50 in Bowie, Northern Corridor Tier I, Prince George's County, MD, Due: March 12, 2001, Contact: Mary F. Huie (410) 962–4342.

EIS No. 010031, Draft EIS, FHW, MI, I–96/Airport Area Access Study, Transportation Improvements, Surrounding the Gerald R. Ford International Airport, Kent County, MI, Due: March 26, 2001, Contact: James A. Kirschensteiner (517) 377–1880.

EIS No. 010032, Draft EIS, AFS, NH, Loon Mountain Ski Resort Development and Expansion Project, Implementation, Special Use Permit, White Mountain National Forest, Pemgewasset Ranger District, Grafton County, NH, Due: March 26, 2001, Contact: Jay Strand (802) 767–4261.

EIS No. 010033, Draft EIS, AFS, MT, Maudlow-Toston Post-Fire Salvage Sale, Harvesting Burnt Timber, Implementation, Helena National Forest, Townsend Ranger District, Broadway County, MT, Due: March 26, 2001, Contact: Joni Packard (406) 266–3425.

EIS No. 010034, Draft Supplement, FAA, UT, Cal Black Memorial Airport Project, New and Updated Information for the Replacing of Halls Crossing Airport, within the boundary of Glen Canyon National Recreation, Halls Crossing, San Juan Counties, UT, Due: March 30, 2001, Contact: Dennis Ossenkop (206) 227–2611.

EIS No. 010035, Draft EIS, IBR, WA, Potholes Reservoir Resource Management Plan, Implementation, COE Section 404 and NPDES Permits, Moses Lake, Grant County, WA, Due: March 27, 2001, Contact: Lola Sept (208) 378–5032.

EIS No. 010036, Draft EIS, FHW, PA, Central Susquehanna Valley Transportation Project, Improve Transportation, PA 0015 Section 088, Funding and COE Section 404 Permit, Snyder, Northumberland and Union Counties, PA, Due: March 26, 2001, Contact: James A. Cheatham (717) 221–3461.

EIS No. 010037, Final EIS, NPS, LA, Cane River Creole National Historical Park, General Management Plan, Natchitoches Parish, LA, Due: March 12, 2001, Contact: Laura Sourlliere (318) 352–0383.

EIS No. 010038, Final EIS, MMS, TX, MS, FL, LA, AL, Programmatic EIS—Proposed Use of Floating Production, Storage and Offloading Systems on

the Gulf of Mexico, Outer Continental Shelf, Western and Central Planning Areas, TX, LA, MS, AL and FL, Due: March 12, 2001, Contact: Archie Melanson (703) 787–1647.

Amended Notices

EIS No. 000451, Draft EIS, DOE, TN, Programmatic EIS—Oak Ridge Y–12 Plant Mission, Processing and Storage Highly Enriched Uranium, U.S. Nuclear Weapons Stockpile, Anderson County, TN, Due: February 05, 2001, Contact: Gary S. Hartman (865) 576–0273.

Revision of FR notice published on 12/22/2000: CEQ Comment Date has been extended from 02/05/2001 to 02/23/2001.

EIS No. 010023, Fourth Draft Supplement, NOA, AK, Groundfish Fishery Management Plan, Implementation, Bering Sea and Aleutian Islands, AK, Due: April 26, 2001, Contact: James W. Balsiger (907) 586–7221.

This EIS should have appeared in the FR on 01/26/2001. The Review Period is Calculated from 01/26/2001.

Dated: February 06, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–3407 Filed 2–8–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51962; FRL–6764–4]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from December 7, 2000 to December 19, 2000, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. The ''S'' and ''G'' that precede the chemical names denote whether the chemical idenity is specific or generic.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51962 and the specific PMN number in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

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

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–51962. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, any test data submitted by the manufacturer/importer 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 TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

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 OPPTS–51962 and the specific PMN number in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260–7093.

3. *Electronically.* You may submit your comments electronically by e-mail to: ''oppt.ncic@epa.gov,'' or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51962 and the specific PMN number. 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 listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from December 7, 2000 to December 19, 2000, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available. The ''S'' and ''G'' that precede the chemical names denote whether the chemical idenity is specific or generic.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

TABLE I. 28 PREMANUFACTURE NOTICES RECEIVED FROM: 12/07/00 TO 12/19/00

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0157	12/07/00	03/07/01	Dow Corning Corporation	(S) Adhesion promoter for silicone elastomers	(G) Aminoalkoxysilane
P–01–0158	12/07/00	03/07/01	Warner-Jenkinson Co., Inc.	(S) Technical dye intermediate	(S) Xanthylium, 3,6-bis[(2,6-dimethylphenyl)amino]-9-(2-sulfophenyl)-, inner salt
P–01–0159	12/08/00	03/08/01	CBI	(G) Component of coating with open use	(G) Modified aminoplastic crosslinker
P–01–0160	12/11/00	03/11/01	CBI	(G) Laminating adhesive	(G) Polymer dispersion of aromatic isocyanate, aliphatic polyols, and aliphatic amines
P–01–0161	12/11/00	03/11/01	CBI	(G) Additive for paint	(G) Aliphatic capped polyester
P–01–0162	12/11/00	03/11/01	CBI	(G) Open, non-dispersive use	(G) Acrylic polymer salt
P–01–0163	12/11/00	03/11/01	CBI	(G) Open, non-dispersive use	(G) Acrylic polymer salt
P–01–0164	12/11/00	03/11/01	CIBA Specialty Chem. Corp., Colors Division	(G) Textile dye	(G) Alkylnitrile, -[[[[substituted thiazole]azo]-substituted phenyl]alkylamino]-
P–01–0165	12/11/00	03/11/01	CBI	(G) Demulsifies (emulsion breaker) for water-in-oil emulsions	(G) Polyethyleneimine propoxylate quat.
P–01–0166	12/12/00	03/12/01	Degussa-Huls Corporation	(G) Chemical intermediate	(S) 5-hexen-1-ol
P–01–0167	12/12/00	03/12/01	CIBA Specialty Chemicals Corporation	(S) Imported intermediate for the manufacture of hindered amine light stabilizers	(G) Substituted piperidinamine
P–01–0168	12/12/00	03/12/01	CBI	(G) Catalyst	(G) Silicone salt
P–01–0169	12/13/00	03/13/01	Arteva Specialties S.A.R.L. d/b/a Kosa	(S) Raw material in the manufacture of rigid polyurethane foam	(G) Aromatic polyester polyol
P–01–0170	12/14/00	03/14/01	Novartis Crop Protection, Inc.	(S) Safener used in pesticide formulation	(S) Acetic acid, [(5-chloro-8-quinolinyl)oxy-], 1-methylhexyl ester

TABLE I. 28 PREMANUFACTURE NOTICES RECEIVED FROM: 12/07/00 TO 12/19/00—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0171	12/14/00	03/14/01	CBI	(G) Component of coating with open use	(G) Acrylic polymer
P–01–0172	12/15/00	03/15/01	CBI	(G) Open, non-dispersive (resin)	(G) Blocked cycloaliphatic polyisocyanate
P–01–0173	12/15/00	03/15/01	CBI	(G) Open, non-dispersive use	(G) Silated urethane polymer
P–01–0174	12/15/00	03/15/01	CBI	(G) Open, non-dispersive use	(G) Carbamate polymer
P–01–0175	12/15/00	03/15/01	Summit Specialty Chemicals Corporation	(G) Monomer for polymer production	(G) Acrylothio sulfide
P–01–0176	12/15/00	03/15/01	CBI	(S) Specialty grease thickener	(G) Aromatic substituted diurea
P–01–0177	12/15/00	03/15/01	CBI	(S) Specialty grease thickener	(G) Aromatic substituted diurea
P–01–0178	12/18/00	03/18/01	CBI	(G) Fragrance	(S) 3-butenoic acid, 2-hydroxy-3-methyl-, ethylester
P–01–0179	12/18/00	03/18/01	H.B. Fuller Company	(S) Industrial wood adhesive for wood reclamation	(G) Acrylate polymer
P–01–0180	12/18/00	03/18/01	H.B. Fuller Company	(S) Industrial wood adhesive for wood reclamation	(G) Acrylate polymer
P–01–0181	12/18/00	03/18/01	Reichhold, Inc.	(G) Hot melt polyurethane adhesive	(G) Isocyanate functional polyether polyester acrylic urethane polymer
P–01–0182	12/19/00	03/19/01	NOF America Corporation	(S) Coating resin for anti-fogging clearcoat in automotive use	(G) Methacrylate copolymer
P–01–0183	12/19/00	03/19/01	CBI	(G) Paint, coating, plastic additive, open, non-dispersive use	(G) Thiazine-indigo
P–01–0184	12/19/00	03/19/01	CBI	(G) Pigment dispersant	(G) Quaternary amine salt of a fatty acid polyester amide

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received:

TABLE II. 2 TEST MARKETING EXEMPTION NOTICES RECEIVED FROM: 12/07/00 TO 12/19/00

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–01–0007	12/08/00	01/22/01	CBI	(G) Component of coating with open use	(G) Modified aminoplastic crosslinker
T–01–0008	12/19/00	02/02/01	CBI	(G) Cleaning hydrotrope	(G) Monoalkyl quaternary ammonium salt

In table III, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

TABLE III. 11 NOTICES OF COMMENCEMENT FROM: 12/07/00 TO 12/19/00

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0415	12/11/00	10/18/00	(G) Calcium fatty acid complex
P–00–0456	12/19/00	12/12/00	(G) Fluoroelastomer
P–00–0690	12/15/00	11/30/00	(G) Alkoxylated allyl methacrylate
P–00–0718	12/18/00	11/07/00	(G) Modified polyester
P–00–0766	12/08/00	11/11/00	(G) Rosin modified phenolic resin
P–00–0922	12/18/00	11/27/00	(G) Alkoxy borohydride
P–00–0990	12/11/00	11/13/00	(G) Amine salt of polyurethane resin
P–00–1011	12/07/00	11/17/00	(G) Acrylic copolymer
P–00–1028	12/07/00	11/08/00	(G) Pyridine carboxylic ester
P–00–1067	12/08/00	11/30/00	(G) Linear alkyl polyhydroxypolyester
P–99–0352	12/19/00	11/30/00	(S) Dodecanamide, *n*-[2-(-hydroxyethoxy)ethyl]-

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: February 2, 2001.

Deborah A. Williams,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–3382 Filed 2–8–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–45; DA 01–278]

Common Carrier Bureau Seeks Comment on Western Wireless's Petition for Designation as an Eligible Telecommunications Carrier for the Pine Ridge Reservation in South Dakota

AGENCY: Federal Communications Commission.

ACTION: Notice; solicitation of comments.

SUMMARY: In a Public Notice in this proceeding released on February 2, 2001, the Common Carrier Bureau sought comment on Western Wireless' petition seeking designation as an eligible telecommunications carrier to receive federal universal service support for a service area comprised of the Pine Ridge Reservation in South Dakota.

DATES: Comments are due on or before March 12, 2001. Reply comments are due on or before March 26, 2001.

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

FOR FURTHER INFORMATION CONTACT: Richard D. Smith or Anita Cheng, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400 TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: On January 19, 2001, Western Wireless Corporation (Western Wireless) filed with the Commission a petition under section 214(e)(6) seeking designation as an eligible telecommunications carrier (ETC) to receive federal universal service support for the provision of service on the Pine Ridge Reservation in South Dakota. Specifically, Western Wireless contends that: (1) Telecommunications service offered on the Pine Ridge Reservation is not subject to the jurisdiction of the South Dakota Public Utilities Commission (South Dakota Commission), (2) Western Wireless meets all the statutory and regulatory requirements to be an ETC, and (3) designating Western Wireless as an ETC for the Reservation will advance the public interest. The Common Carrier Bureau seeks comment on Western Wireless' petition.

In the *Twelfth Report and Order,* 65 FR 47941, August 4, 2000, the Commission concluded that a carrier seeking a designation of eligibility to receive federal universal service support for telecommunications service provided on tribal lands may petition the Commission for designation under section 214(e)(6), without first seeking designation from the appropriate state commission. The petitioner must provide copies of its petition to the appropriate state commission at the time of filing with the Commission. Pursuant to the guidelines established in the *Twelfth Report and Order,* the Commission will publish a copy of this Public Notice, or a summary thereof, in the **Federal Register**. The Commission will also send the Public Notice announcing the comment and reply comment dates to the South Dakota Commission by overnight express mail to ensure that the state commission is notified of the notice and comment period. To ensure that all interested parties are aware of the comment dates, the Bureau will issue a Public Notice following **Federal Register** publication specifying the exact comment and reply comment dates.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments as follows: Comments are due March 12, 2001 and reply comments are due March 26, 2001. Comments 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. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, 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 comments by Internet e-mail. To receive filing instructions for e-mail comments, 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. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

Parties also must send three paper copies of their filing to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street SW., Room 5–B540, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20037.

Pursuant to § 1.1206 of the Commission's rules, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are permitted subject to disclosure.

Dated: February 5, 2001.

Katherine L. Schroder,

Division Chief, Accounting Policy Division.

[FR Doc. 01–3325 Filed 2–8–01; 8:45 am]

BILLING CODE 6712–01–U

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 March 8, 2001.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. BB&T Corporation, Winston-Salem, North Carolina; to merge with Century South Banks, Inc., Alpharetta, Georgia, and Independent Bancorp, Inc., Oxford, Alabama, and thereby indirectly acquire Century South Bank of Alabama, Oxford, Alabama; Century South Bank of Central Georgia, National Association, Macon, Georgia; Century South Bank of Dahlonega, Dahlonega, Georgia; Century South Bank of Danielsville, Danielsville, Georgia; Century South Bank of Dawsonville, Dawsonville, Georgia; Century South Bank of Ellijay, Ellijay, Georgia; Century South Bank of Fannin County, National Association, Blue Ridge, Georgia; Century South Bank of Lavonia, Lavonia, Georgia; Century South Bank of Northeast Georgia, National Association; Gainesville, Georgia; Century South Bank of Polk County, Copperhill, Tennessee; and Century South Bank of the Coastal Region, National Association, Savannah, Georgia.

In connection with this application, Applicant also has applied to acquire HBI Acquisition Corp., Waynesboro, North Carolina, and thereby indirectly acquire Century South Bank of the Carolinas, FSB, Waynesville, North Carolina, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Native American Bancorporation, Co., Denver, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Blackfeet National Bank, Browning, Montana.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President), 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. American State Bancshares, Inc., Great Bend, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of American State Bank & Trust Company, NA, Great Bend, Kansas.

Board of Governors of the Federal Reserve System, February 6, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–3393 Filed 2–8–01; 8:45 am]

BILLING CODE 6210–01–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0048]

Agency Information Collection Activities; Proposed Collection; Comment Request; Current Good Manufacturing Practice Regulations for Type A Medicated Articles

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the recordkeeping requirements for manufacturers of Type A medicated articles.

DATES: Submit written or electronic comments on the collection of information by April 10, 2001.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Current Good Manufacturing Practice Regulations for Type A Medicated Articles—21 CFR 226 (OMB Control No. 0910–0154)—Extension

Under section 501 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351), FDA has the statutory authority to issue current good manufacturing practice (CGMP) regulations for drugs, including Type A medicated articles. A Type A medicated article is a feed product containing a concentrated drug diluted with a feed carrier substance. A Type A medicated article is intended solely for use in the manufacture of another Type A medicated article or a Type B or Type C medicated feed. Medicated feeds are administered to animals for the prevention, cure, mitigation, or treatment of disease or for growth promotion and feed efficiency.

Statutory requirements for CGMP's for Type A medicated articles have been codified in part 226 (21 CFR part 226). Type A medicated articles that are not manufactured in accordance with these regulations are considered adulterated under section 501(a)(2)(B) of the act. Under part 226, a manufacturer is

required to establish, maintain, and retain records for Type A medicated articles, including records to document procedures required under the manufacturing process to assure that proper quality control is maintained. Such records would, for example, contain information concerning receipt and inventory of drug components, batch production, laboratory assay results (i.e., batch and stability testing), and product distribution. This information is needed so that FDA can monitor drug usage and possible misformulation of Type A medicated articles. The information could also prove useful to FDA in investigating product defects when a drug is recalled. In addition, FDA will use the CGMP criteria in part 226 to determine whether or not the systems used by manufacturers of Type A medicated articles are adequate to assure that their medicated articles meet the requirements of the act as to safety and also meet the articles, claimed identity, strength, quality, and purity, as required by section 501(a)(2)(B) of the act as to safety and also meet the articles, claimed identity, strength, quality, and purity, as required by section 501(a)(2)(B) of the act.

The respondents for Type A medicated articles are pharmaceutical firms that manufacture both human and veterinary drugs, those firms that produce only veterinary drugs and commercial feed mills.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
226.42	115	260	29,900	0.75	22,425
226.58	115	260	29,900	1.75	52,325
226.80	115	260	29,900	0.75	52,325
226.102	115	260	29,900	1.75	52,325
226.110	115	260	29,900	0.25	7,475
226.115	115	10	1,150	0.5	575
Total					187,450

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimate of the time required for record preparation and maintenance is based on agency communications with industry. Other information needed to calculate the total burden hours (i.e., manufacturing sites, number of Type A medicated articles being manufactured, etc.) are derived from agency records and experience.

Dated: February 2, 2001.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 01–3348 Filed 2–8–01; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0046]

Agency Information Collection Activities; Proposed Collection; Comment Request; Current Good Manufacturing Practice Regulations for Medicated Feeds

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the recordkeeping requirements for manufacturers of medicated animal feeds.

DATES: Submit written or electronic comments on the collection of information by April 10, 2001.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1462.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information including each proposed reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Current Good Manufacturing Practice Regulations for Medicated Feeds—21 CFR Part 225 (OMB Control No. 0910–0152)—Extension

Under section 501 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351), FDA has the statutory authority to issue current good manufacturing practice (CGMP) regulations for drugs, including medicated feeds. Medicated feeds are administered to animals for the prevention, cure, mitigation, or treatment of disease or growth promotion and feed efficiency. Statutory requirements for CGMP's have been codified under part 225 (21 CFR part 225). Medicated feeds which are not manufactured in accordance with these regulations are considered adulterated under section 501(a)(2)(B) of the act. Under part 225, a manufacturer is required to establish, maintain, and retain records for a medicated feed, including records to document procedures required during the manufacturing process to assure that proper quality control is maintained. Such records would, for example, contain information concerning receipt and inventory of drug components, batch production, laboratory assay results (i.e. batch and stability testing), labels , and product distribution.

This information is needed so that FDA can monitor drug usage and possible misformulation of medicated feeds, to investigate violative drug residues in products from treated animals and investigate product defects when a drug is recalled. In addition, FDA will use the CGMP criteria in part 225 to determine whether or not the systems and procedures used by manufacturers of medicated feeds are adequate to assure that their feeds meet the requirements of the act as to safety and also meet their claimed identity, strength, quality, and purity, as required by section 501(a)(2)(B) of the act.

A license is required when the manufacturer of a medicated feed involves the use of a drug or drugs, which FDA has determined requires more control because of the need for a withdrawal period before slaughter or carcinogenic concerns. Conversely, for those medicated feeds for which FDA has determined that the drugs used in their manufacture need less control, a license is not required and the recordkeeping requirements are less demanding. Respondents to this collection of information are commercial feed mills and mixer-feeders.

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN (REGISTERED LICENSE HOLDERS) [1, 2]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
225.42(b)(5) through (b)(8)	1,150	260	299,000	1	299,000
225.58(c) and (d)	1,150	45	51,750	.5	25,875
225.80(b)(2)	1,150	1,600	1,840,000	.12	220,800
225.102(b)(1)	1,150	7,800	8,970,000	.08	717,600
225.110(b)(1) and (b)(2)	1,150	7,800	8,970,000	.015	134,550
225.115(b)(1) and (b)(2)	1,150	5	5,750	.12	690
Total					1,398,515

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Commercial feed mills.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN (REGISTERED LICENSE HOLDERS) [1, 2]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
225.42(b)(5) through (b)(8)	100	260	26,000	.15	3,900
225.58(c) and (d)	100	36	3,600	.5	1,800
225.80(b)(2)	100	48	4,800	.12	576
225.102(b)(1) through (b)(5)	100	260	26,000	.4	10,400
Total					16,676

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Licensed mixer-feeders.

TABLE 3.—ESTIMATED ANNUAL RECORDKEEPING BURDEN (NONREGISTERED) [1, 2]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
225.142	8,000	4	32,000	1	32,000
225.158	8,000	1	8,000	4	32,000
225.180	8,000	96	768,000	.12	92,160
225.202	8,000	260	2,080,000	.65	1,352,000
Total					1,508,160

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Unlicensed commercial feed mills.

TABLE 4.—ESTIMATED ANNUAL RECORDKEEPING BURDEN (NONREGISTERED) [1, 2]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
225.142	45,000	4	180,000	1	180,000
225.158	45,000	1	45,000	4	180,000
225.180	45,000	32	1,440,000	.12	172,800
225.202	45,000	260	11,700,000	.33	3,861,000
Total					4,393,800

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Unlicensed mixer-feeders.

The estimate of the times required for record preparation and maintenance is based on agency communications with industry. Other information needed to finally calculate the total burden hours (i.e., number of recordkeepers, number of medicated feeds being manufactured, etc.) is derived from agency records and experience.

Dated: February 5, 2001.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 01–3416 Filed 2–8–01; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1567]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution

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 March 12, 2001.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution—21 CFR Part 207 (OMB Control No. 0910–0045)—Extension

Under section 510 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360), FDA is authorized to establish a system for registration of producers of drugs and for listing of drugs in commercial distribution. To implement section 510 of the act, FDA issued part 207 (21 CFR part 207). Under § 207.20, manufacturers, repackers, and relabelers that engage in the manufacture, preparation, propagation, compounding, or processing of human or veterinary drugs and biological products, including bulk drug substances and bulk drug substances for prescription compounding, and drug premixes as well as finished dosage forms, whether prescription or over-the-counter, are required to register their establishment. In addition, manufacturers, repackers, and relabelers are required to submit a listing of every drug or biological product in commercial distribution. Owners or operators of establishments that distribute, under their own label or trade name, a drug product manufactured by a registered establishment are not required either to register or list. However, distributors may elect to submit drug listing information in lieu of the registered establishment that manufactures the drug product. Foreign drug establishments must also comply with the establishment registration and product listing requirements if they import or offer for import their products into the United States.

Under §§ 207.21 and 207.22, establishments must register with FDA by submitting Form FDA 2656 (Registration of Drug Establishment) within 5 days after beginning the manufacture of drugs or biologicals, or within 5 days after the submission of a drug application or biological license application. In addition, establishments must register annually by returning, within 30 days of receipt from FDA, Form FDA 2656e (Annual Update of Drug Establishment). Changes in individual ownership, corporate or partnership structure location, or drug-handling activity must be submitted as amendments to registration under § 207.26 within 5 days of such changes. Distributors that elect to submit drug listing information must submit Form FDA 2656 to FDA and a copy of the completed form to the registered establishment that manufactured the product to obtain a labeler code. Establishments must, within 5 days of beginning the manufacture of drugs or biologicals, submit to FDA a listing for every drug or biological product in commercial distribution at that time by using Form FDA 2657 (Drug Product Listing). Private label distributors may elect to submit to FDA a listing of every drug product they place in commercial distribution. Registered establishments must submit to FDA drug product listing for those private label distributors who do not elect to submit listing information by using Form FDA 2658 (Registered Establishments' Report of Private Label Distributors).

Under § 207.25, product listing information submitted to FDA must, depending on the type of product being listed, include any new drug application number or biological establishment license number, copies of current labeling and a sampling of advertisements, a quantitative listing of the active ingredient for each drug or biological product not subject to an approved application or license, the National Drug Code number, and any drug imprinting information.

In addition to the product listing information required on Form FDA 2657, FDA may also require, under § 207.31, a copy of all advertisements and a quantitative listing of all ingredients for each listed drug or biological product not subject to an approved application or license; the basis for a determination, by the establishment, that a listed drug or biological product is not subject to marketing or licensing approval requirements; and a list of certain drugs or biological products containing a particular ingredient. FDA may also request, but not require, the submission of a qualitative listing of the inactive ingredients for all listed drugs or biological products, and a quantitative listing of the active ingredients for all listed drugs or biological products subject to an approved application or license.

Under § 207.30, establishments must update their product listing information by using Form FDA 2657 and/or Form FDA 2658 every June and December or, at the discretion of the establishment, when any change occurs. These updates must include the following information: (1) A listing of all drug or biological products introduced for commercial distribution that have not been included in any previously submitted list, (2) all drug or biological products formerly listed for which commercial distribution has been discontinued, (3) all drug or biological products for which a notice of discontinuance was submitted and for which commercial distribution has been resumed, and (4) any material change in any information previously submitted. No update is required if no changes have occurred since the previously submitted list.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

Reporting	No. of Respondents	No. of Respones per Respondent	Annual Frequency per Response	Total Annual Responses	Hours per Response
(1) Form FDA–2656 Registration of Drug Establishment 21 CFR 207.21, 207.22, 207.25, 207.26, and 207.40	15,802	.34	5,438	.5	2,719
(2) Form FDA–2656e Annual Update of Drug Establishment 21 CFR 207.21, 207.22, 207.25, 207.26, and 207.40	7,226	1	7,226	.5	3,613
(3) Form FDA–2657 Drug Product Listing 21 CFR 207.21, 207.22, 207.25, 207.30, 207.31, and 207.40	14,381	2.80	40,270	.5	20,135
(4) Form FDA–2658 Registered Establishments' Report of Private Label Distributors 21 CFR 207.21, 207.22, 207.25, 207.30, and 207.31	6,221	2.14	13,289	.5	6,645
Total Reporting Burden					33,112

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

In the **Federal Register** of November 2, 2000 (65 FR 65858), the agency requested comments on the proposed collections of information. The agency received one comment on the 60-day notice. The comment recommended that FDA eliminate the requirement to send a representative label and/or carton with each Form FDA 2657 and 2658, and that, instead, the labeling would be available and submitted to FDA upon request.

FDA appreciates the recommendation concerning labeling submissions. However, the comment is beyond the scope of the November 2, 2000, notice. That notice provided an opportunity for public comment on the agency's estimates of the burden resulting from the information collection requirements imposed by part 207. In the **Federal Register** of November 30, 2000 (65 FR 73798), FDA announced as part of the semiannual regulatory agenda that it intends to publish a proposed rule to revise part 207 to clarify the requirements for registration and listing and to consolidate and reorganize the regulations. The proposal would also require the electronic submission of establishment registration and product listing information. It would be more appropriate to submit the comment to that proposed rule after it publishes in the **Federal Register**.

Dated: February 5, 2001.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 01–3414 Filed 2–8–01; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1685]

New Food Chemicals Codex Monographs, Revisions of Certain Food Chemicals Codex Monographs, a New General Test Procedure, and Revisions to a Policy; Opportunity for Public Comment; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice document that published in the **Federal Register** of January 22, 2001 (66 FR 6624). The notice announced an opportunity for public comment on proposed new Food Chemicals Codex specification monographs, proposed changes to certain Food Chemicals Codex specification monographs, a proposed new general test procedure, and proposed changes to a policy in the fourth edition. The notice was published with some inadvertent errors. This document corrects those errors.

DATES: Submit written comments by March 8, 2001. (The committee advises that comments received after this date may not be considered for the third supplement to the fourth edition. Comments received too late for consideration for the third supplement will be considered for later supplements or for a new edition of the Food Chemicals Codex.)

FOR FURTHER INFORMATION CONTACT: Paul M. Kuznesof, Division of Product Manufacture and Use (HFS–246), Office of Premarket Approval, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3009.

SUPPLEMENTARY INFORMATION: In FR Doc. 01–1713, appearing on page 6624 in the **Federal Register** of January 22, 2001, the following corrections are made:

1. On page 6625, in the first column, in the last line of the first paragraph, the Internet address is corrected to read ''http://www.iom.edu/fcc.''

2. On the same page beginning in the same column, the formatting of all the entries listed under **I. Proposed New Monographs** and under **II. Current Monographs to Which the Committee Proposes to Make Revisions** is corrected to read:

I. Proposed New Monographs

Flavor Chemicals
Acetaldehyde Diethyl Acetal
2-Acetyl Thiazole
Allyl Phenoxy Acetate
Allyl Propionate
Borneol
Butyl 2-Methyl Butyrate
2-sec-Butyl Cyclohexanone
Diphenyl Ether
d-Fenchone
Fenchyl Alcohol
Furfuryl Alcohol
2-Furyl Methyl Ketone
Salatrim
Soy Protein Concentrate

II. Current Monographs to Which the Committee Proposes to Make Revisions

Ammonium Phosphate, Monobasic (fluoride test corrected)
Carmine (description and assay test revised)
Enzyme Preparations (classifications and reactions added for α-Acetolactatedecarboxylase;
Aminopeptidase, Leucine; and Lysozyme) Flavor Chemicals
Cinnamic Acid (solubility in alcohol revised)
d-Dihydrocarvone (solubility in alcohol revised)
2-Heptanone (specific gravity revised)
Hexyl Isovalerate (solubility in alcohol revised)
Isoamyl Benzoate (solubility in alcohol revised)
Nerolidol (assay revised)
(Z)-6-Nonen-1-ol (refractive index revised) alpha-Pinene (angular rotation revised) 2-Undecenol (specific gravity revised)
Potassium Phosphate, Monobasic (fluoride test corrected)
Potassium Phosphate, Tribasic (fluoride test corrected)
Potassium Pyrophosphate (fluoride test corrected)
Potassium Tripolyphosphate (fluoride test corrected)
Sodium Acid Pyrophosphate (fluoride test corrected)
Sodium Metaphosphate, Insoluble (fluoride test corrected)
Sodium Phosphate, Dibasic (fluoride test corrected)
Sodium Phosphate, Monobasic (fluoride test corrected)
Sodium Polyphosphate, Glassy (fluoride test corrected)
Sodium Potassium Tripolyphosphate (fluoride test corrected)
Sodium Trimetaphosphate (fluoride test corrected)
Sodium Tripolyphosphate (fluoride test corrected)

3. On page 6625, in the third column, the last sentence is corrected to read: ''Copies of the proposed changes may also be obtained through the Internet at http://www.iom.edu/fcc.''

Dated: February 2, 2001.

L. Robert Lake,

Director of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 01–3347 Filed 2–8–01; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1681]

Draft Guidance on Potassium Iodide as a Thyroid Blocking Agent in Radiation Emergencies; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to April 30, 2001, the comment period for the draft guidance entitled ''Potassium Iodide as a Thyroid Blocking Agent in Radiation Emergencies'' that appeared in the **Federal Register** of January 4, 2001 (66 FR 801). FDA is taking this action in response to a request for an extension.

DATES: Submit written comments on the draft guidance by April 30, 2001. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of this draft guidance are available on the Internet at http://www.fda.gov/cder/guidance/index.htm. Submit written requests for single copies of the draft guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist the office in processing your request. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Requests and comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Rose E. Cunningham, Executive Operations (HFD–06), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–6779.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 4, 2001 (66 FR 801), FDA published a notice announcing the availability of a draft guidance document entitled ''Potassium Iodide as a Thyroid Blocking Agent in Radiation Emergencies.'' This draft guidance updates the notice of availability entitled ''Potassium Iodide as a Thyroid-Blocking Agent In a Radiation Emergency: Final Recommendations On Use,'' published in the **Federal Register** of June 29, 1982 (47 FR 28158). In this draft guidance, FDA maintains its position that potassium iodide is a safe and effective means by which to prevent radioiodine uptake by the thyroid gland, under certain specified conditions of use, and thus to lessen the risk of thyroid cancer in the event of a radiation emergency.

FDA received an e-mail request, dated January 4, 2001, requesting that the agency extend the comment period on the draft guidance by 60 days, allowing 90 days for comments. Because the draft guidance introduces several new recommendations, the agency has decided to extend the comment period on the draft guidance to April 30, 2001, to allow the public more time to review and comment on its contents.

Interested persons may submit to the Dockets Management Branch (address above) written comments on the draft guidance document by April 30, 2001. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. The draft guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 2, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–3417 Filed 2–8–01; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–10029]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New collection; *Title of Information Collection:* Medicare Program Integrity Customer Service Project; *Form No.:* HCFA–10029 (OMB# 0938–NEW); *Use:* Medicare's Integrity Program seeks to improve customer service provided to beneficiaries and providers. The study's purpose is to identify baseline satisfaction with Program Integrity efforts, to prioritize improvement areas, and to identify potential service delivery changes that can be implemented by HCFA or its contractors. Respondents include beneficiaries whose billing questions were transferred to Fraud, and providers who have been through enrollment, medical review, or cost report audit; *Frequency:* Annually; *Affected Public:* Individuals or households, Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 5,250; *Total Annual Responses:* 5,250; *Total Annual Hours:* 782. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, HCFA 10029, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: January 25, 2001.

John P. Burke III,

Reports Clearance Officer, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–3328 Filed 2–8–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Services Abuse and Mental Health Services Administration (SAMHSA)

AGENCY: Center for Mental Health Services; Center for Substance Abuse Prevention; Center for Substance Abuse Treatment; Substance Abuse and Mental Health Services Administration, HHS; Notice of Technical Assistance Workshops

Notice is hereby given of the following workshops for the provision of technical assistance to potential applicants for SAMHSA grants.

The Substance Abuse and Mental Health Services Administration's (SAMHSA's) Center for Mental Health Services (CMHS), Center for Substance Abuse Prevention (CSAP) and Center for Substance Abuse Treatment (CSAT), are offering a series of three one and a half day regional Technical Assistance Workshops for prospective applicants. These workshops will be conducted jointly by the three SAMHSA Centers to provide support to prospective applicants in preparing their applications in response to published grant announcements.

Several SAMHSA grant announcements will be featured at the workshop, including:

Center for Mental Health Services: Youth Violence Prevention, Circles of Care, HIV/AIDS in Minority Communities, Targeted Capacity Response, State Data Infrastructure, Restraint and Seclusion

Center for Substance Abuse Prevention: Community-Initiated Prevention Interventions, High-Risk Youth, HIV/AIDS in Minority Communities, State Incentive Grants, Fetal Alcohol Syndrome

Center for Substance Abuse Treatment: Targeted Capacity Expansion, Strengthening Treatment for Children & Adolescents, Strengthening Treatment for Racial/Ethnic Minority Populations, Comprehensive Community Treatment Program for the Development of New and Useful Knowledge, Substance Abuse Treatment for Homeless Individuals, Re-Entry, Recovery Community Support Program, TCE/HIV

More information about each grant program will be available on SAMHSA's website at: http//www.samhsa.gov. The Guidance for Applicants (GFAs) for these grant programs can also be found at SAMHSA's website following publication in the **Federal Register**. Potential participants are strongly encouraged to check these resources prior to attending the workshop.

The Technical Assistance Workshops will be held at the following locations: Workshop I—March 15 and 16, Holiday Inn Hotel and Conference Center, Scottsdale, AZ, (480) 994–9203 or (800) 695–6995; Workshop II—March 20 and 21, Adam's Mark Hotels and Resorts, Orlando, FL, (407) 859–1500; and Workshop III—March 22 and 23, The Boston Park Plaza Hotel, Boston, MA, (617) 426–2000 or (800) 225–2008.

Registration and check-in at each site will be at 7:30 a.m.; workshop hours on the first day are 8:30 a.m.–6 p.m. On the second day, the grant writing session will take place from 8:30 a.m.–3:30 p.m.

Preliminary Agenda Highlights for the TA Workshops include: (1) Review of SAMHSA programs and priorities; (2) Provision of related resource materials; (3) Technical/practical aspects of the grants application process including application requirements, improving applications, instruction in completing required forms, submission, review, and award procedures; (4) Separate breakout sessions for discussion of specific grant announcements; and (5) Opportunity for questions and answers. On the second day, there will be a session designed to provide further assistance with grant writing and application preparation.

TA Workshop Arrangements

There is no registration fee for the workshops. However, space is limited and preregistration is strongly encouraged. Registrants will be responsible for costs associated with their own travel, meals, and lodging. Workshop confirmation will be faxed. For further assistance, please call the SAMHSA hotline at (301) 984–1471, ext. 377 or by fax at (301) 945–4298. SAMHSA suggests that the attendees be

those persons having the responsibility for conceptualizing and writing the application.

Hotel Information

Participants are responsible for making their own hotel reservations. When calling the hotel, reference the SAMHSA TA Workshop. Registrants are urged to make their reservations as soon as possible.

Dated: February 5, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–3418 Filed 2–8–01; 8:45 am]

BILLING CODE 4162–20–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. PR–4644–N–06]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to Assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable.unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifforn Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register,** the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Agriculture:* Ms. Marsha Pruitt, Department of Agriculture, Room 310B, 300 7th St., SW, Washington, DC 20250; (202) 720–4335; *DOT:* Mr. Rugene Spruill, Space Management, SVC–140, Transportation Administrative Service Center, Department of Transportation, 400 7th Street, SW, Room 2310, Washington, DC 20590; (202) 366–4246; *GSA:* Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–0386; *Interior:* Ms. Linda Tribby, Acquisition & Property Management, Department of the Interior, 1849 C Street, NW, MS 5512, Washington, DC 20240; (202) 219–0728; *Navy:* Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE, Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: February 1, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

Title V, Federal Surplus Property Program Federal Register Report for 2/9/01

Suitable/Available Properties

Buildings (by State)

California

Bell Fed. Service Center
5600 Rickenbacker Rd.
Bell Co: Los Angeles CA 90201–6418
Landholding Agency: GSA
Property Number: 54200110003
Status: Underutilized
Comment: 200,000 sq. ft., most recent use—warehouse
GSA Number: CA086122

Maryland

La Plata Housing
Radio Station Rd.
La Plata Co: Charles MD
Landholding Agency: GSA
Property Number: 54200110006
Status: Excess
Comment: Townhouse complex of 20 units, 3-bedroom units—997 sq. ft., 1115 sq. ft., and 1011 sq. ft., needs rehab, presence of asbestos/lead paint
GSA Number: 4–N–MD–601

Massachusetts

Cross Terrace
S. Weymouth Naval Air Station
S. Weymouth Co: MA

Landholding Agency: GSA
Property Number: 54200110004
Status: Excess
Comment: 5 one story, 2 bedroom duplex housing units, needs rehab, off-site use only
GSA Number: 1–U–MA–860

USCG Air Station
Cape Cod Co: Barnstable MA
Landholding Agency: GSA
Property Number: 54200110005
Status: Underutilized
Comment: 60—2 & 3 bedroom housing units, may be difficulty in moving foundation, off-site use only
GSA Number: 1–U–MA–859

Mississippi

Quarters #162
Natchez Trace Pkwy
162 Trace Circle
Ridgeland Co: Madison MS 39157–
Landholding Agency: Interior
Property Number: 61200110001
Status: Excess
Comment: 1121 sq. ft., presence of asbestos, most recent use—residential, off-site use only

Quarters #167
Natchez Trace Pkwy
Rt. 1, Box 46A
Port Gibson Co: Claiborne MS 39150–
Landholding Agency: Interior
Property Number: 61200110002
Status: Excess
Comment: 1414 sq. ft., presence of asbestos, most recent use—residential, off-site use only

Quarters #257
Natchez Trace Pkwy
Star Route Box 14
Carlisle Co: Claiborne MS 39049–
Landholding Agency: Interior
Property Number: 61200110003
Status: Excess
Comment: 1415 sq. ft., presence of asbestos, most recent use—residential, off-site use only

Quarters #182
Natchez Trace Pkwy
Kosciusko Co: Atalla MS 39090–
Landholding Agency: Interior
Property Number: 61200110004
Status: Excess
Comment: 1121 sq. ft., presence of asbestos, most recent use—residential, off-site use only

Quarters #197
Natchez Trace Pkwy
Rt. 1
Mantee Co: Chickasaw MS 39751–
Landholding Agency: Interior
Property Number: 61200110005
Status: Excess
Comment: 1121 sq. ft., presence of asbestos, most recent use—residential, off-site use only

Buildings (by State)

Tennessee

Quarters #169
Natchez Track Pkwy
Meriwether Lewis Rd.
Hohenwald Co: Lewis TN 38462–
Landholding Agency: Interior
Property Number: 61200110006
Status: Excess
Comment: 1121 sq. ft., presence of asbestos, most recent use—residential, off-site use only

Virginia

Bldgs. SP–79/80/81/79AQ
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200110034
Status: Excess
Comment: Most recent use—residential & detachable garage, high maintenance, presence of asbestos, off-site use only

West Virginia

Beckley Fed. Bldg.
400 Neville Street
Beckley Co: Raleigh WV 25801–
Landholding Agency: GSA
Property Number: 54200110002
Status: Excess
Comment: 2-story, good condition, presence of asbestos—pipes GSA Number: 4–G–WV–538

Land (by State)

Missouri

Improved Land
St. Louis Army Ammunition Plant
4800 Goodfellow Blvd.
St. Louis Co: MO 63120–1798
Landholding Agency: GSA
Property Number: 54200110007
Status: Surplus
Comment: 21 acres w/2 large bldgs. and numerous small bldgs. situated on 13 acres, 5 acres = parking lot and streets, presence of asbestos/lead paint, clean-up required to state regulator standards
GSA Number: 000000

Unsuitable Properties

Buildings (by State)

Alaska

Bldg. 23
USCG Integrated Support Command
Kodak Co: Kodiak Island AK 99619–
Landholding Agency: DOT
Property Number: 87200110009
Status: Excess
Reason: Extensive deterioration

Bldg. 25
USCG Integrated Support Command
Kodiak Co: Kodiak Island AK 99619–
Landholding Agency: DOT
Property Number: 87200110010
Status: Excess
Reason: Extensive deterioration

Bldg. 53
USCG Integrated Support Command
Kodiak Co: Kodiak Island AK 99619–
Landholding Agency: DOT
Property Number: 87200110011
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material; Secured Area; Extensive deterioration

Arizona

Old Ranger House
Admin Site
Alpine Co: Apache AZ 85920–
Landholding Agency: Agriculture
Property Number: 15200110001
Status: Unutilized
Reason: Extensive deterioration

District of Columbia

Bldg. A–092
Naval Station Anacostia
Washington Co: DC 20374–
Landholding Agency: Navy
Property Number: 77200110046
Status: Underutilized
Reason: Secured Area

Florida

Bldg. 183
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110019
Status: Unutilized
Reason: Secured Area

Bldg. 494
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110020
Status: Unutilized
Reason: Secured Area

Bldg. 647
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number 77200110021
Status: Unutilized
Reason: Secured Area

Bldg. 649B
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110022
Status: Unutilized
Reason: Secured Area

Bldg. 679
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110023
Status: Unutilized
Reason: Secured Area

Bldg. 692
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110024
Status: Unutilized
Reason: Secured Area

Bldg. 755
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110025
Status: Unutilized
Reason: Secured Area

Bldg. 785
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110026
Status: Unutilized
Reason: Secured Area

Bldg. 1704
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110027
Status: Unutilized
Reason: Secured Area

Bldg. 3448
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110028
Status: Unutilized
Reason: Secured Area

Bldg. 3579
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110029
Status: Unutilized
Reason: Secured Area

Bldg. 3673
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110030
Status: Unutilized
Reason: Secured Area

Bldg. 3823
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110031
Status: Unutilized
Reason: Secured Area

Bldg. 3824
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110032
Status: Unutilized
Reason: Secured Area

Oregon

Bldg.
366 E. Hurlburt
Hermiston Co: Umatilla OR 97838–
Landholding Agency: Interior
Property Number: 61200110007
Status: Unutilized
Reason: Extensive deterioration

South Carolina

36 Bldgs.
Naval Weapons Station
Charleston
Goose Creek Co: Berkeley SC 29445–
Location: 34, 47, 63, 67, 203, 276, 297, 306, 334, 350, 370, 383, 435, 725, 798, 806, 823, 844, 905, 906, 907, 912, 915, 919, 920, 923, 924, 948, 954, 992, 2333, 2334, 3232, 3741, 3761, 454
Landholding Agency: Navy
Property Number: 77200110033
Status: Excess
Reason: Within 200 ft. of flammable or explosive material; Secured Area

Texas

Facility 119
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200110047
Status: Excess
Reasons: Within airport runway clear zone; Secured Area; Extensive deterioration

Virginia

Bldg. 4078, PR#201819
Naval Amphibious Base
Virginia Beach Co: VA 23455–
Landholding Agency: Navy
Property Number: 77200110035
Status: Unutilized
Reason: Extensive deterioration

Foot Bridge
Naval Medical Center
Portsmouth Co: VA 23708–2197
Landholding Agency: Navy
Property Number: 77200110036
Status: Unutilized
Reasons: Floodway; Secured Area

Land (by State)

California

Parcel 3
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110037
Status: Underutilized
Reason: Secured Area

Parcel 4
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110038
Status: Underutilized
Reason: Secured Area

Parcel 7
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110039
Status: Underutilized
Reason: Secured Area

Parcel 8
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110040
Status: Underutilized
Reason: Secured Area

Parcel 10
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110041
Status: Underutilized
Reason: Secured Area

Parcel 11
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110042
Status: Underutilized
Reason: Secured Area

Parcel 12
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110043
Status: Underutilized
Reason: Secured Area

Parcel 13
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110044
Status: Underutilized
Reason: Secured Area

Parcel 14
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110045
Status: Underutilized
Reason: Secured Area

[FR Doc. 01–3235 Filed 2–8–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. TE–036436

Applicant: Environmental Planning Group, Tucson, Arizona.

Applicant requests authorization to conduct presence/absence surveys for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) and the southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona.

Permit No. TE–36912

Applicant: Tohono O'Odham Nation, Sells, Arizona.

Applicant requests authorization to conduct presence/absence surveys for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*), and the southwestern willow flycatcher (*Empidonax traillii extimus*) on the Tohono O'Odham Nation in Arizona.

Permit No. TE–37118

Applicant: Scott E. Carroll, Tucson, Arizona.

Applicant requests authorization to conduct presence/absence surveys for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) in Maricopa, Pinal, Pima, Cochise, Graham, Gila, Greenlee, Santa Cruz, and Yuma Counties, Arizona.

Permit No. TE–37684

Applicant: Jay K. Esler, Tucson, Arizona.

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) in Arizona.

Permit No. TE–10472

Applicant: Geo-Marine, Inc., Newport News, Virginia.

Applicant requests authorization to conduct presence/absence surveys for the black-capped vireo (*Vireo atricapillus*) and golden-cheeked warbler (*Dendroica chrysoparia*) in various Texas Counties.

Permit No. TE–37780

Applicant: Northwestern Resources Co., Jewett, Texas.

Applicant requests authorization for research and recovery purposes to conduct presence/absence surveys, conduct activities around the nest habitat area, and relocate nests occurring in active mine areas for the interior least tern (*Sterna antillarum athalassos*) in Leon, Limestone, and Freestone counties, Texas.

Permit No. TE–37789

Applicant: Helen Yard, Flagstaff, Arizona.

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the southwestern willow flycatcher (*Empidonax traillii extimus*) in Arizona, New Mexico, Utah, California, and Nevada.

Permit No. TE–038048

Applicant: Robert H. Perrill, Tucson, Arizona.

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) in Pima County, Arizona.

Permit No. TE–038050

Applicant: Trevor A. Hare, Tucson, Arizona.

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) in Pima, Pinal, Santa Cruz, and Yuma Counties, Arizona.

Permit No.'s TE–035143 and TE–800611

Applicant: James C. Cokendolpher, Lubbock, Texas and SWCA, Inc., Austin, Texas.

Applicants request authorization for recovery purposes to conduct presence/absence surveys for the following Bexar County invertebrates: Helotes mould beetle (*Batrisodes venyivi*), Robber Baron Cave harvestman (*Texella cokendolpheri*), Government Canyon cave spider (*Neoleptoneta microps*), Robber Baron cave spider (*Cicurina baronia*), Madla's cave spider (*Cicurina madla*), vesper cave spider (*Cicurina vespera*),and (*Rhadine exilis*), (*Rhadine infernalis*), (*Cicurina venii*), no common names, in Bexar County, Texas.

Permit No. TE–038052

Applicant: USDA Natural Resources Conservation Center, Tucson, Arizona.

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) in Pima, Santa Cruz, Pinal, Maricopa, Graham, Gila, and Cochise Counties, Arizona.

Permit No. TE–038055

Applicant: University of New Mexico, Museum of Southwestern Biology, Albuquerque, New Mexico.

Applicant requests authorization for research and recovery purposes to collect Rio Grande silvery minnow (*Hybognathus amarus*) fin clips in Sandoval, Bernalillo, Valencia, and Socorro Counties, New Mexico.

DATES: Written comments on these permit applications must be received on or before March 12, 2001.

ADDRESS: Written data or comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103; Fax (505) 248–6788. 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, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, Albuquerque, New Mexico, at the above address. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Stephen C. Helfert,

Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 01–3344 Filed 2–8–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Environmental Assessment (EA) for Suitland Parkway ''Emergency'' Tree Pruning to Remove Obstructions to the Andrews Air Force Base West Runway

ACTION: Notice of availability of Environmental Assessment for Suitland Parkway ''Emergency'' Tree Pruning to Remove Obstructions to the Andrews Air Force Base West Runway.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality regulations, and NPS guidance, the National Park Service (NPS) prepared an EA for an ''Emergency'' tree pruning on Suitland Parkway, Prince George's County, Maryland to remove obstructions to Andrews Air Force Base West runway.

This notice announces availability of an EA on this subject for public review. This EA is not intended to negate or replace in any way a larger and more complex environmental document being prepared by the U.S. Air Force (USAF) and the NPS, to deal with the issue of long term runway landing concerns involving Suitland Parkway and Andrews Air Force Base (AAFB).

The USAF has requested that the National Park Service lower the canopy heights at several areas at the eastern end of the Suitland Parkway, Prince George's County, Maryland in order that they may utilize the southern approach to the AAFB West runway during low visibility events (rain, fog, clouds). This approach is presently closed due to tree obstructions occurring on park property. The purpose of this emergency action is to eliminate the tree penetration into the 34:1 imaginary plane and allow the USAF to reopen their runway approach, while minimizing the resulting effect on the appearance and health of the Suitland Parkway trees, and the habitat values they provide. Approximately 12 to 24 trees are presently penetrating in the USAF imaginary 34:1 plane need to minimally pruned to reduce their height.

NPS now makes this EA available to the public for fifteen day from the publication of the notice. Anyone may submit a written comment. Any written comments NPS receives during this review will be considered prior to making a decision and finding on this EA. Commentors are advised that, if requested, the NPS is required to supply to any requester, the names and addresses of the individuals providing

comments. This EA analysis and its public availability are pursuant to NEPA, and its regulations, and NPS authorities and guidance.

SUPPLEMENTARY INFORMATION: Requests for copies of the EA, or for any additional information, should be directed to Ms. Susan Rudy, National Capital Parks-East, 1900 Anacostia Drive, SE, Washington, DC 20020, Telephone: (202) 690–5164.

Dated: January 29, 2001.

John Hale,

Superintendent, National Capital Parks-East.

[FR Doc. 01–3409 Filed 2–8–01; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Crossroads of the American Revolution Special Resource Study/ Environmental Assessment/Feasibility Study Public Meetings and Intent To Publish

AGENCY: National Park Service; Interior.

ACTION: Notice of Intent to Publish a Special Resource Study/Environmental Assessment/Feasibility Study.

SUMMARY: This notice announces an upcoming scoping meeting/open house for the Crossroads of the American Revolution and the intent to publish a Special Resource Study/Environmental Assessment and Feasibility Study in association with the Crossroads of the American Revolution.

Appropriation Bill H.R. 3194 directs the Crossroads of the American Revolution study. Open houses will be held as part of the scoping process. Further notice will be published in local newspapers when dates are set. Local newspapers will include the Trenton Times and Star Ledger among others.

We encourage all who have an interest to contact us by letter or telephone. Further information about the Crossroads of the American Revolution and the open houses can be obtained by contacting Linda Mead, Crossroads Project Leader, at 609–924–4646.

FOR FURTHER INFORMATION CONTACT: Linda Mead, Project Leader, Crossroads of the American Revolution, 570 Mercer Road, Princeton, New Jersey 08540, 609–924–4646.

Dated: January 23, 2001.

Michael D. Henderson,

Superintendent, Morristown National Historic Park.

[FR Doc. 01–3354 Filed 2–8–01; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Announcement of Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Aniakchak National Monument and the Chairperson of the Subsistence Resource Commission for Aniakchak National Monument announce a forthcoming meeting of the Aniakchak National Monument Subsistence Resource Commission. The following agenda items will be discussed:

(1) Call to order.

(2) SRC Roll Call and Confirmation of Quorum.

(3) Welcome and Introductions.

(4) Review and Adopt Agenda.

(5) Review and adopt minutes from the April 4, 2000 meeting.

(6) Commission Purpose.

(7) Status of Membership.

(8) Public and Agency Comments.

(9) Old Business:

a. Status of Correspondence.

(1) **Federal Register** Publication of the NPS Roster Regulation.

(2) Customary Trade within Aniakchak National Monument and Preserve.

(3) Trapping Furbearers with Firearm within Aniakchak National Park Service Monument and Preserve.

b. Status of Geographic Place Names Request.

c. Aniakchak National Monument and Preserve Commercial Visitor Services Report.

d. Status of SRC Hunting Program Recommendations.

(1) 97–1, Establish One-Year Minimum Residency Requirement for Resident Zone Communities.

(2) 97–2, Establish a Registration Permit Requirement within Aniakchak National Preserve for Non-subsistence Fish and Wildlife Harvest Activities.

(3) Draft Hunting Plan Recommendation 2000—1: Between September 10–20, Establish a Corridor in Aniakchak National Preserve Where NPS Would Limit Commercial Guide Party Size, Access and drop-off Locations.

(10) New Business:

a. October 2000 SRC Chairs Workshop Report.

b. Federal Subsistence Board Update.

(1) Review Unit 9E Board Actions Taken during May 2000.

(2) Bristol Bay Regional Council Report.

(3) Review Wildlife Proposals for 2001.

(4) Review Fish Proposals for 2001.

(11) Review Draft Aniakchak National Monument and Preserve Subsistence Management Plan.

(12) Election of SRC Chair and Vice Chair.

(13) Public and Agency Comments.

(14) SRC work session (draft proposals, letters, and recommendations).

(15) Set time and place of next SRC meeting.

(16) Adjournment.

DATES: The meeting will begin at 9 a.m. on Wednesday, February 7, 2001 and conclude at approximately 6 p.m.

Location: Community Subsistence Building, Chignik Lake, Alaska.

FOR FURTHER INFORMATION CONTACT: Mary McBurney at Phone (907) 257–2633, or Tom O'Hara, Subsistence Manager, Aniakchak National Monument, P.O. Box 7, King Salmon, Alaska 99613. Phone (907) 246–2101.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Ralph Tingey,

Acting Regional Director.

[FR Doc. 01–3353 Filed 2–8–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Announcement of Subsistence Resource Commission meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Subsistence Resource Commission meeting.

SUMMARY: The Subsistence Resource Commission for Lake Clark National Park and Preserve has scheduled their meeting for February 15, 2001. The meeting will be held at the Park hangar in Port Alsworth, Alaska. The meeting will commence at 10:00 am and conclude that afternoon. The public is welcome to attend. The following agenda items will be discussed:

(1) Call to order.

(2) Roll call-Confirm Quorum.

(3) Introductions.

(4) Superintendent's Welcome.

(5) Additions, corrections and agenda approval.

(6) Approval of SRC meeting minutes.

(7) SRC Purpose and Role.

(8) Status of Membership.

(9) Report on October 2000 Chair Workshop

a. NPS Customary Trade Regulations.

b. Rule Making For 1 Year Resident Zone Requirement.

c. Revise SRC Charter to Allow Alternates.

(10) Old Business.

a. Proposal #33 (Customary and Traditional Use Determination for Tuxedni Bay salmon).

(11) New Business.

a. Update on 2001–2002 Federal Subsistence Board Proposals.

(1) Proposal #1 and #2 Statewide-Definitions.

(2) Proposal #16 Unit 9B–C & T.

(3) Proposal #19 Unit 9B–Sheep.

b. Federal Subsistence Fisheries Report.

(12) Lake Clark National Park and Preserve Report.

a. Subsistence Program Report.

b. Resource Program Report.

(13) Agency Reports and Public Comments.

(14) SRC Work Session-Prepare correspondence/recommendations.

(15) Set time and place of next meeting.

(16) Adjournment.

DATES: The meeting will begin at 10:00 a.m. on Thursday, February 15, 2001 and conclude around 4:30 p.m.

Location: The meeting will be held at the Park Service hangar, Port Alsworth, Alaska Phone (907) 781–2218.

FOR FURTHER INFORMATION CONTACT: Lee Fink, Chief of Operations, 4230 University Drive, Suite 311, Anchorage, Alaska 99508 Phone (907) 271–3751 or Karen Stickman, Subsistence Coordinator, 1 Park Place, Port Alsworth, Alaska 99653 Phone (907) 781–2218.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commission is authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487 and operate in accordance with provisions of the Federal Advisory Committees Act. Note that under the Freedom of Information Act (FOIA), transcripts of any person giving public comments may be made available under a FOIA request.

Ralph Tingey,

Acting Regional Director.

[FR Doc. 01–3351 Filed 2–8–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Announcement of Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Wrangell-St. Elias National Park and the Chairperson of the Subsistence Resource Commission announce a forthcoming meeting of the Wrangell-St. Elias National Park Subsistence Resource Commission. The following agenda items will be discussed:

(1) Call to Order (Chairman).

(2) Roll Call: Confirmation of Quorum.

(3) Introduction of Commission members, staff, and guests.

(4) Review Agenda.

(5) Review and approval of minutes from November 3–4, 2000 meeting.

(6) Superintendent's welcome and review of the Commission purpose.

(7) Commission membership status.

(8) Election of Chair and Vice Chair.

(9) Public and other agency comments.

(10) Superintendent's report.

(11) Old Business:

a. Proposal to change Unit 11 sheep regulations.

b. Subsistence Hunting Program Recommendation 97–01: establish minimum residency requirement for resident zone communities.

c. SRC Chairs Customary Trade concerns.

d. Status of Malaspina Forelands ATV study project.

e. Alternate SRC members.

(12) Wrangell-St. Elias National Park and Preserve staff report

a. Wildlife report.

b. Fisheries report.

(13) New Business:

a. Update on Federal Fish Management and Resource Monitoring.

b. Review of 2001–2002 Federal Subsistence Board Wildlife proposals.

(14) Public and other agency comments.

(15) Subsistence Resource Commission work session to develop proposals/finalize recommendations.

(16) Set time and place of next Subsistence Resource Commission meeting.

(17) Adjourn meeting.

DATES: The meeting will begin at 9 a.m. on Tuesday, February 20, 2001, and conclude at approximately 5 p.m. The meeting will reconvene at 9 a.m. on Wednesday, February 21, 2001, and adjourn at approximately 5 p.m. The meeting will adjourn earlier if the agenda items are completed.

Location: Gulkana Community Hall, Gulkana, Alaska.

FOR FURTHER INFORMATION CONTACT: Devi Sharp, Resource Management Specialist, Wrangell-St. Elias National Park and Preserve, P.O. Box 439, Copper Center, Alaska 99573. Phone (907) 822–5234.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commission is authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operates in accordance with the provisions of the Federal Advisory Committees Act.

Paul Anderson,

Deputy Regional Director.

[FR Doc. 01–3352 Filed 2–8–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of the Cranbrook Institute of Science, Bloomfield Hills, MI

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 Cranbrook Institute of Science that meet the definition of ''sacred objects'' under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The two cultural items are a Hopi Kachina Initiation altar and a Hopi Water Serpent altar. The Kachina Initiation altar consists of a plaster sand painting for the floor and is accompanied by eight groups of altar adornment, including eagle feathers, ears of colored corn, stone celts, a wooden weaving implement, and shell and stone beads. The Water Serpent altar consists of a large canvas screen divided into four panels of painted images. Four carved snakes or ''water serpents'' extend outward in front of the altar screen.

The Hopi Kachina Initiation altar and the Hopi Water Serpent altar were purchased by Cranbrook Institute of Science in 1933 from the estate of Sir Henry Wellcome, who obtained the altars from the Field Museum of Natural History in Chicago, IL, following an exhibit. The 2 altars belonged to a series of 12 Hopi altars constructed by Hopi priests and artists specifically for the Field Museum exhibit.

Information provided with the altars at the time of purchase describes the Field Museum exhibit and the circumstances of the priests' and artists' commission to construct the altars at the Field Museum from components that had been prefabricated in Arizona. Description of the ceremonies and the items used in the ceremonies are addressed in anthropology literature, such as *Hopi Kachina*, by E. A. Kennard, *The Kachina and the White Man*, by Frederick Dockstader, and in the text that accompanied the original exhibit.

Based on the above-mentioned information, officials of the Cranbrook Educational Community, parent organization for Cranbrook Institute of Science, have determined that, pursuant to 43 CFR 10.2 (d)(3), these cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Cranbrook Institute of Science also 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 cultural items and the Hopi Tribe of Arizona.

This notice has been sent to officials of the Hopi Tribe of Arizona. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these cultural items should contact Michael Stafford, Ph.D., Curator of Anthropology and Head of Science Department, Cranbrook Institute of Science, 39221 Woodward Avenue, Bloomfield Hills, MI 48303-0801, telephone (248) 645-3223, before March 12, 2001. Repatriation of these cultural items to the Hopi Tribe of Arizona may begin after that date if no additional claimants come forward.

Dated: January 24, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–3357 Filed 2–8–01; 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 Control of the U.S. Department of Interior, Bureau of Land Management, New Mexico State Office, Santa Fe, NM

AGENCY: National Park Service, Interior.

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 control of the U.S. Department of Interior, Bureau of Land Management, New Mexico State Office, Santa Fe, NM.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the University of Colorado Museum, Eastern New Mexico University, the Maxwell Museum of Anthropology (University of New Mexico), the New Mexico State University Museum, the Museum of New Mexico, the San Juan County Museum, and Bureau of Land Management professional staff in consultation with representatives of the Hopi Tribe of Arizona; the Navajo Nation, Arizona, New Mexico, and Utah; the Pueblo of Acoma, New Mexico; the Pueblo of Jemez, New Mexico; the Pueblo of Isleta, New Mexico; the Pueblo of San Ildefonso, New Mexico; the Pueblo of Zia, New Mexico; and the Zuni Tribe of the Zuni Reservation.

In 1981, human remains representing eight individuals were recovered from site LA 282 in New Mexico during legally authorized excavations and collections conducted by the Archeological Field School of the University of New Mexico. These human remains are presently curated at the Maxwell Museum of Anthropology, University of New Mexico. No known individuals are identified. The 11 associated funerary objects are pottery bowls and sherds.

Based on material culture, architecture, and site organization, site LA 282 has been identified as an Anasazi pueblo occupied between C.E. 1300–1600.

Continuities of ethnographic materials, technology, and architecture indicate affiliation of Anasazi sites in this area of New Mexico with historic and present-day Puebloan cultures. Oral traditions presented by representatives of the Pueblo of Isleta, New Mexico indicate cultural affiliation with the Anasazi sites in this portion of New Mexico.

Based on the above-mentioned information, officials of the New Mexico State Office of the Bureau of Land Management have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of eight individuals of Native American ancestry. Officials of the New Mexico State Office of the Bureau of Land Management also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 11 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 New Mexico State Office of the Bureau of Land Management 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 Pueblo of Isleta, New Mexico and Ysleta del Sur Pueblo of Texas. This notice has been sent to officials of the Hopi Tribe of Arizona; the Navajo Nation, Arizona, New Mexico, and Utah; the Pueblo of Acoma, New Mexico; the Pueblo of Jemez, New Mexico; the Pueblo of Isleta, New Mexico; the Pueblo of San Ildefonso, New Mexico; the Pueblo of Zia, New Mexico; and the Zuni Tribe of the Zuni Reservation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Stephen L. Fosberg, State Archeologist and NAGPRA Coordinator, New Mexico State Office, Bureau of Land

Management, 1474 Rodeo Road, Santa Fe, NM 87502–0115, telephone (505) 438–7415, before March 12, 2001. Repatriation of the human remains and associated funerary objects to the Pueblo of Isleta, New Mexico; and Ysleta del Sur Pueblo of Texas may begin after that date if no additional claimants come forward.

Dated: January 25, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–3355 Filed 2–8–01; 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 the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

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 the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2(c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Osage Tribe, Oklahoma.

Between 1844 and 1866, human remains representing one individual were collected from an unknown location in Arkansas by any of the following: Horace Mann, the Medical Improvement Society, or Jeffries Wyman.

These human remains were sold to the Boston Society of Natural History, Boston, MA, which donated the remains to the Peabody Museum in 1916. No known individual was identified. No associated funerary objects are present.

Peabody Museum documentation describes the individual as an ''Osage chief.'' The attribution of such a specific cultural affiliation to the human remains indicates that the interment postdates sustained contact between indigenous groups and Europeans beginning in the 17th century in traditional Osage territory. Arkansas, where the human remains were collected, includes part of traditional Osage territory. Oral tradition and historic evidence support the cultural affiliation with the Osage Tribe, Oklahoma.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology 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 Peabody Museum of Archaeology and Ethnology also 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 the Osage Tribe, Oklahoma.

This notice has been sent to officials of the Osage Tribe, Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Barbara Isaac, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 495–2554, before March 12, 2001. Repatriation of the human remains to the Osage Tribe, Oklahoma may begin after that date if no additional claimants come forward.

Dated: January 24, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–3356 Filed 2–8–01; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–449]

In the Matter of Certain Abrasive Products Made Using a Process for Making Powder Preforms, and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 5, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Minnesota Mining & Manufacturing Co., of St. Paul, Minnesota, and Ultimate Abrasive Systems, L.L.C., of Atlanta, Georgia. A supplement to the complaint was filed on January 18, 2001. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain abrasive products made using a process for making powder preforms, and products containing same, by reason of infringement of claim 1 of U.S. Letters Patent 5,620,489. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint and supplement, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

FOR FURTHER INFORMATION CONTACT: Benjamin D.M. Wood, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2582.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2000).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on February 5, 2001, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain abrasive products made using a process for making powder preforms, or products containing same, by reason of infringement of claim 1 of U.S. Letters Patent 5,620,489, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

Minnesota Mining & Manufacturing Co., 3M Center, St. Paul, Minnesota 55144

Ultimate Abrasive Systems, L.L.C., 2900 Lookout Place, Atlanta, Georgia 30305

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Kinik Company, 10 Yenping South Road, Chung Chen District, Taipei, Taiwan

Kinik Corporation, 3156 East La Palma Avenue, Unit G, Anaheim, California 92806–2809

(c) Benjamin D.M. Wood, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401–I, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Debra Morriss is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: February 6, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–3400 Filed 2–8–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–448]

In the Matter of Certain Oscillating Sprinklers, Sprinkler Components, and Nozzles; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 8, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of L.R. Nelson Corporation. An amended complaint was filed on January 31, 2001. The complaint, as amended, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain oscillating sprinklers, sprinkler components, and nozzles that are allegedly covered by claims 1–4, 6–16 and 18–22 of U.S. Letters Patent 6,036,117, claims 1–5, 9–11 and 14 of U.S. Letters Patent 5,511,727, and claims 44–49 and 51–53 of U.S. Letters Patent 5,645,218. The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may be obtained by accessing its internet server (http://www.usitc.gov).

FOR FURTHER INFORMATION CONTACT: Juan Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2572.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.10 of the Commission's rules of practice and procedure, 19 CFR 210.10 (2000).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on February 2, 2001, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain oscillating sprinklers, sprinkler components, and nozzles by reason of infringement of claims 1–4, 6–16, 18–21 or 22 of U.S. Letters Patent 6,036,117, claims 1–5, 9–11 or 14 of U.S. Letters Patent 5,511,727, or claims 44–49, 51–52 or 53 of U.S. Letters Patent 5,645,218, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—L.R. Nelson Corporation, One Sprinkler Lane, Peoria, Illinois 61615.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Ruey Ryh Enterprise Co., Ltd., 133, An Hsi Street, An Hsi Village, Chang Hua Hsien, Taiwan, Postcode 504
Yuan Mei Group, No. 1, Lane 288, Sec. 1 Lu Ho Rd., Lu Kang, Chang Hua Hsien, Taiwan
Amagine Garden, Inc., No. 21, Lane 409, Lu Ho Rd. Sec., Lu Kang Chen, Chang Hua Hsien, Taiwan
Aqua Star Industries, Inc., 5775 Jurupa St., Ontario, California 91761
Le Yuan Industrial Co., Ltd. No. 10 Fang Tung Road, Rangyuan Hsiang, Changhua, Taiwan
Shin Da Spurt Water of Garden Tool Co., Ltd., No. 75, Koao Tsuoh Land, Kiao Tauoh Li, Chang Hua Hsien, Taiwan, Postcode 505
Melnor, Inc., One Carol Place, Moonachie, New Jersey 07074–1386
Rain Bird Sprinkler Manufacturing Corp., 145 N. Grand St., Glendora, California 91741–2469
Lego Irrigation Equipment, Kiryat Nordau, Netanya, Israel
Naan Sprinkler and Irrigation Systems, Inc., Kibbutz Naan, 76829, Israel
Orbit Irrigation Products, Inc., 845 N. Overland Road, North Salt Lake, Utah 84054
Gardena Krest + Kastner GmbH, Hans-Lorenserstrasse 40, D–89070 Ulm, Germany
Watex International Co., Ltd., 10, Chung Shan Road, Min Shun Hsiang, Taiwan,

(c) Juan Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401–Q, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.13 of the Commission's rules of practice and procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a) of the Commission's rules, such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: February 5, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–3342 Filed 2–8–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

2001 National Research Conference; Call for Papers

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of request for information.

SUMMARY: This document requests empirical/non-empirical papers related to workforce development issues for the purpose of developing a comprehensive agenda for a National Research Conference to be convened in Washington, DC on June 26–27, 2001.

DATES: Papers submitted for inclusion in the agenda for the National Workforce Security Research Conference must be received by March 16, 2001.

ADDRESSES: Papers should be sent to the Office of Workforce Security, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210. Attention: Esther R. Johnson.

FOR FURTHER INFORMATION CONTACT: Esther R. Johnson, Office of Workforce Security, Employment and Training Administration, Room S–4231, U.S. Department of Labor, Washington, DC 20210, Email *erjohnson@doleta.gov*, telephone (202) 693–3165. This is not a toll-free number. To review previously published studies by the Office of Workforce Security, access via the Internet at *http://wdr.doleta.gov/owsdrr/.*

SUPPLEMENTARY INFORMATION:

A. Background

The Employment and Training Administration of the U.S. Department of Labor (DOL) is the Federal government agency responsible for implementing a national workforce security system that enables workers and employers to compete and succeed in an ever-changing economy. This is accomplished through the provision of world-class labor market information, job search assistance, training, and unemployment insurance benefits, to manage the risks associated with unemployment, declining income, and skill shortages. Its most recent effort, the implementation of the Workforce Investment Act, combines a variety of workforce development programs and initiatives under one umbrella—the One-Stop System—to effectively serve the needs of job-seekers, workers, and employers in the changing workforce development environment at the onset of the 21st century economy.

In light of major changes in the macro-economy that have taken place in the areas of technological transformation, increasing globalization, and changing demographics over recent years, and the resulting effects of rising workforce insecurity, the Office of Workforce Security, Employment and Training Administration, will hold its first national research conference. The conference will focus on issues related to impacts, trends, and challenges of the macro-economy to workforce development, the significance of recent changes in workforce development, workforce competitiveness in global economy, workforce security in our new economy, and major policy options to promote economic opportunities for our workforce.

B. Information Requested

This is a call for empirical/non-empirical papers related to workforce development issues. We are seeking recently completed papers and papers that will be completed prior to the conference. We encourage contributions by researchers from academia, State or local agencies, business organizations, labor associations, research consulting firms, and other organizations. Possible topics may include, but are not limited to:

1. Unemployment Insurance Program—(program administration, benefit coverage, benefit duration, benefit eligibility, contingent workers, benefit financing, economic stabilization, recipiency rate, contingent workers, dislocated workers, telephone remote claims);

2. Employment Services—(labor exchange services, labor market information and emerging labor markets, the role of labor market intermediaries, worker profiling and reemployment services, the role of self-directed services, the role of the private sector in training and reemployment services, and bridging the gap between skills and employer needs);

3. One-Stop System—(administration, program linkages/connectivity, financing, innovative strategies for providing services);

4. Assisting low-wage workers—(role of workforce development system in assisting low-wage, female, and informal sector labor force);

5. Welfare Reform—(impact on and connection to workforce development programs); and

6. Technology and labor market—(role of Internet in job search and employment services, labor market mobility, training, technology and job creation).

All papers submitted will be reviewed by a panel of DOL experts in the workforce development arena, and presenters will be notified if their papers are selected. Papers selected for the conference will be published as part of our OWS Occasional Paper Series. Travel and accommodation expenses for invited presenters will be paid by the Office of Workforce Security. If interested, please submit your paper/abstract in hard copy and diskette/CD (Word Perfect or Word) by March 16, 2001. Papers should be doubled-spaced and single-sided. You will be notified by April 4, 2001 if your paper is selected; you will have to confirm your attendance by April 10, 2001. We also encourage submitting abstracts for papers that have not yet been completed, but will be completed before the deadline for submission of papers. Consistent with 5 CFR 1320.3(h)(4), this is a general solicitation of information from the general public.

C. Public Participation

The Conference will be held on June 26 and 27, 2001 in Washington, D.C. This Conference is open to the public; there is no registration fee. For registration information, please contact H.M.A Associates, Inc., 1000 Thomas Jefferson St., NW, Suite 309, Washington, DC, 20007, Attn: Peggie Edwards-Jefferies or email them at *HMASSOC@worldnet.att.net.*

Signed at Washington, DC, this 19th day of January, 2001.

Raymond L. Bramucci,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 01–3394 Filed 2–8–01; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None.

Volume II

None.

Volume III

None.

Volume IV

None.

Volume V

None.

Volume VI

None.

Volume VII

None.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regulator weekly updates are distributed to subscribers.

Signed at Washington, DC this 31st day of January 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–3041 Filed 2–8–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of Labor-Management Standards

Interpretation of the ''Advice'' Exemption in Section 203(c) of the Labor-Management Reporting and Disclosure Act

AGENCY: Office of Labor-Management Standards, Employment Standards Administration, Labor.

ACTION: Notice; further deferral of enforcement action.

SUMMARY: Consistent with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001 (66 FR 7702), this action temporarily delays for 60 days the date on which the Office of Labor-Management Standards will begin to enforce the interpretation set forth in a notice published in the **Federal Register** on January 11, 2001 (66 FR 2782). The temporary 60-day delay is necessary to give Department officials the opportunity for further review and consideration of this matter.

DATES: The interpretation of the ''advice'' exemption in Section 203(c) of the Labor-Management Reporting and Disclosure Act of 1959, as amended, published in the **Federal Register** on January 11, 2001 was to have commenced on February 10, 2001. It shall instead commence on April 11, 2001.

FOR FURTHER INFORMATION CONTACT: Kay H. Oshel, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–5605, Washington, DC, (202) 693–1233 (this is not a toll free number).

Signed at Washington, DC, this 6th day of February, 2001.

Joe N. Kennedy,

Acting Assistant Secretary of Labor for Employment Standards.

[FR Doc. 01–3476 Filed 2–8–01; 8:45 am]

BILLING CODE 4510–86–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Aracoma Coal Company

[Docket No. M–2000–170–C]

Aracoma Coal Company, P.O. Box 470, Stollings, West Virginia 25646 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Alma Mine No. 1 (I.D. No. 46–08801) located in Logan County, West Virginia. The petitioner proposes to plug and mine through gas wells using specific procedures outlined in this petition for modification. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Canyon Fuel Company, LLC

[Docket No. M–2000–171–C]

Canyon Fuel Company, P.O. Box 1029, Wellington, Utah 84542 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Dugout Canyon Mine (I.D. No. 46–01890) located in Carbon County, Utah. The petitioner requests a modification of the existing standard to permit the belt haulage entry to be used at the return entry during two-entry longwall panel development and as an intake entry to provide additional face ventilation during longwall panel retreat mining. The petitioner proposes to install a low-level carbon monoxide monitoring system in all sections where the belt entry is used as either an intake or return air course and in the primary intake entries. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miner and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Canyon Fuel Company, LLC

[Docket No. M–2000–172–C]

Canyon Fuel Company, LLC, P.O. Box 1029, Wellington, Utah 84542 has filed a petition to modify the application of 30 CFR 75.352 (return air courses) to its Dugout Canyon Mine (I.D. No. 46–01890) located in Carbon County, Utah. The petitioner requests a modification of the existing standard to permit the belt haulage entry to be used at the return entry during two-entry longwall panel development and as an intake entry to provide additional face ventilation during longwall panel retreat mining. The petitioner proposes to install a low-level carbon monoxide monitoring system in all sections where the belt entry is used as either an intake or return air course and in the primary intake entries. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miner and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

4. ASARCO Incorporated

[Docket No. M–2000–010–M]

ASARCO Incorporated, P.O. Box 460, Strawberry Plains, Tennessee 37871 has filed a petition to modify the application of 30 CFR 57.11055 (inclined escapeways) which requires

that vertical shafts over 300 feet be equipped with an emergency hoisting facility. The petition applies to the Coy Mine (I.D. No. 40–00166) located in Jefferson County, Tennessee. The petitioner requests a modification of the existing standard for the purpose of complying with Program Policy Letter P00–IV–5 and 30 CFR 57.11050(a), which requires that all mines must have two continuously functional escapeways at all times. The petitioner proposes to use a vertical ladderway as an emergency escapeway, and as a secondary means of escape within the primary escapeway in the event of an extended power failure or repair to a damaged hoist, to avoid hazards that are created by repeated unnecessary mine evacuations. The petitioner asserts that application of PPL P00–IV–5 and 30 CFR 57.11050(a) would result in a diminution of safety to the miners and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

5. New Tech Oil Company

[Docket No. M–2001–001–M]

New Tech Oil Company, P.O. Box 68, Kaycee, Wyoming 82639 has filed a petition to modify the application of 30 CFR 57.11050(a) (escapeways and refuges) to its North Tisdale Shaft No. 1 Mine (I.D. No. 48–01147) located in Johnson County, Wyoming. The petitioner requests a modification of the existing standard to permit its man cage hoist and ladder man-way to be used as two separate escapeways. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

6. New Tech Oil Company

[Docket No. M–2001–002–M]

New Tech Oil Company, P.O. Box 68, Kaycee, Wyoming 82639 has filed a petition to modify the application of 30 CFR 57.19054 (rope guides) to its North Tisdale Shaft No. 1 Mine (I.D. No. 48–01147) located in Johnson County, Wyoming. The petitioner proposes to use bridge strand wire rope in shafts as rope guides. The petitioner states that: (i) the locked coil rope is no longer produced in the United States; (ii) the three remaining manufacturers will not produce small quantities of the locked coil rope that is required for the Tech Oil Company's North Tisdale Shaft No. 1 Mine; and (iii) the bridge strand wire rope would be 1–¼ inches, 1 x 36 construction, structural strands. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to ''comments@msha.gov,'' or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 12, 2001. Copies of these petitions are available for inspection at that address.

Dated: February 1, 2001.

David L. Meyer,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 01–3377 Filed 2–8–01; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before March 26, 2001. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@arch2.nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Marie Allen, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: records.mgt@arch2.nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Army, Agency-wide (N1–AU–01–14, 2 items, 2 temporary items). Records relating to equal employment opportunity surveys of Army military personnel. Included are reviews, final survey reports, recommendations, and electronic copies of documents created using electronic mail and word processing.

2. Department of Commerce, U.S. Patent and Trademark Office (N1–241–01–1, 33 items, 33 temporary items). Paper and electronic records associated with electronic systems, including source records, reports, electronic data and scanned images, system backup files, and electronic copies of documents created using electronic mail and word processing. Systems pertain to such matters as tracking customer orders for patent information, agency equal employment opportunity cases, and the submission and processing of trademark applications.

3. Department of Commerce, U.S. Patent and Trademark Office (N1–241–01–2, 34 items, 34 temporary items). Paper and electronic records associated with trademark electronic systems, including source records, reports, electronic data and scanned images, system backup files, and electronic copies of documents created using electronic mail and word processing. Systems pertain to such matters as the activities and actions of the Trademark Trial and Appeal Board, the capture and maintenance of character based trademark data elements, and the publication of the agency's Official Gazette, a weekly issuance that notifies the public of activity in the trademark registry.

4. Department of Defense, Office of the Inspector General (N1–509–99–1, 8 items, 2 temporary items). Records of the Guatemala Review Panel. Included are administrative disks and diskettes, along with the scanned version of a small portion of the Panel's documents. Proposed for permanent retention are recordkeeping copies of documents accumulated during the review, along with related working papers, reports, and electronic and paper indexes.

5. Department of Defense, National Imagery and Mapping Agency (N1–537–00–4, 32 items, 27 temporary items). Paper, electronic, and audiovisual records relating to communications, including electronic copies of documents created using electronic mail and word processing. Records relate to general administration of communications, postal and mail services, and audiovisual activities. Still pictures, videos and motion pictures, audio recordings, and posters that document the agency mission are proposed for permanent retention.

6. Department of Health and Human Services, Administration for Children and Families (N1–292–01–1, 4 items, 4 temporary items). Records relating to the assessment of Year 2000 conversion issues, including assessment reports, correspondence, training materials, and electronic copies of documents created using electronic mail and word processing.

7. Department of Justice, Office of Alien Property (N1–131–00–1, 24 items, 18 temporary items). Business records seized by the Alien Property Custodian, financial records relating to domestic corporations, audit reports, patent administration records, copyright inquiry and license case files, enclosures to estate case files, vested property case files and general subdivision correspondence files, records of the Philippine Alien Property Administration relating to claims and vested property, and records and reference material maintained by the Comptroller Division. Records were accumulated ca. 1937–1964. Proposed for permanent retention are such records as reports of property owned by Germans in countries other than Germany and the United States, records relating to the Axis Replacement Program in Latin America, litigation records, and general correspondence relating to Jewish Restitution Successor Organization claims.

8. Department of Justice, Office of Alien Property (N1–131–00–2, 14 items, 6 temporary items). General inquiries and case files relating to patent and trademark matters, files relating to administrative matters, and case files handled by the Estates and Trusts Branch, with related enclosures. Records were accumulated ca. 1940–1972. Proposed for permanent retention are general subject files relating to patent, copyright, trademark, and other matters handled by the Alien Property custodian, general correspondence subject files relating to Alien Property Custodian program operations, general correspondence files relating to property matters, and files relating to legislation, executive Orders, policy and procedures, and instructions.

9. Department of Justice, Federal Bureau of Investigation (N1–65–00–5, 1 item, 1 temporary item). Hardcopy teletypes from other government agencies sent to the FBI from 1998 through February of 2000 that are maintained in a control file in Classification 62, Miscellaneous Matters. Hard copies are also filed in the relevant case files, which will be retained or destroyed in accordance with previously approved disposition instructions. An electronic version is maintained in the FBI's Automated Case Support system, which will be scheduled at a later date.

10. Department of Justice, Bureau of Prisons (N1–129–01–2, 11 items, 11 temporary items). Records of the Office of Internal Affairs, including such files as complaints that do not result in the initiation of an investigation, investigative cases, and databases used to locate files, track the progress of cases, and generate reports and statistics on workload. Also included are electronic copies of documents created using electronic mail and word processing.

11. Department of State, Bureau of Human Resources (N1–59–00–7, 44 items, 37 temporary items). Records of the Office of Recruitment, Examination, and Employment, including records related to the recruitment of student interns and foreign service officers, the examination of foreign service candidates, the administration of the foreign service placement examination, and the placement of diplomats in residence. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of such files as policy and procedure documents, agendas, minutes, and annual reports of the Board of Examiners for the Foreign Service, and general subject files pertaining to examinations.

12. Department of State, Bureau of Human Resources (N1–59–00–14, 16 items, 16 temporary items). Records of the Office of Overseas Employment, including subject and country files, job

classification surveys, wage surveys, and claims files. Also included are electronic copies of documents created using electronic mail and word processing.

13. Department of the Treasury, Bureau of the Public Debt (N1–53–00–7, 21 items, 19 temporary items). Operational records including budget preparation documents, personnel listings, telephone logs, copies of internal regulations, project files, and Assistant Commissioner chronological files. Also included are electronic copies of documents created using word processing and electronic mail. Recordkeeping copies of regulations, procedures, and project files covering significant studies are proposed for permanent retention.

14. Department of Veterans Affairs, Veterans Health Administration (N1–15–00–2, 17 items, 13 temporary items). Input documents, optical disks, reports, and backup files relating to two registries. One pertains to veterans who may have been exposed to ionizing radiation; the other includes data on personnel who served in the Gulf War. Master data files and the related documentation associated with both registries are proposed for permanent retention.

15. Federal Communications Commission, Office of the Managing Director (N1–173–00–1, 5 items, 3 temporary items). Input/source records in both electronic and textual formats and output reports associated with the Commission Registration System. This system contains basic information on entities doing business with the Commission, such as entity name, address, official contact telephone number, tax identification number, and agency-assigned registration number. The master data file and system documentation are proposed for permanent retention.

Dated: February 1, 2001.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 01–3326 Filed 2–8–01; 8:45 am]

BILLING CODE 7515–01–U

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biological Infrastructure Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Biological Infrastructure (#1215).

Date and Time: Monday–Tuesday, February 26 and 27, 2001 8 a.m.–6 p.m.

Place: 4121 Wilson Blvd., Stafford II Room 565, Arlington VA.

Type of Meeting: Closed.

Contact Person: Gerald Selzer, Program Director Biological Instrumentation and Multi-User Equipment, National Science Foundation, Rm. 615, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone (703) 292–8470.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposal for acquisition of Biological Instrumentation and Multi-User Equipment (MUE) Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under (4) and (6) of 5 U.S.C. 552b(c), of the Government in the Sunshine Act.

Dated: January 31, 2001.

Karen J. York,

Committee Management Officer.

[FR Doc. 01–3338 Filed 2–8–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—(1194).

Date and Time: April 17, 25, and 26 2001; 8 a.m.–5:30 p.m.

Place: Room 330 National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 and Rooms II–595 and II–545 National Science Foundation Conference Floor, Stafford II Bldg, 4121 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Ronald Rardin, Program Director, DMII, (703) 292–8330, National Science Foundation, 4201 Wilson Boulevard, Arlington VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Unsolicited proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters that are exempt under 5 U.S.C. 522b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 5, 2001.

Karen J. York,

Committee Management Officer.

[FR Doc. 01–3336 Filed 2–08–01; 8:45am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Developmental Mechanisms; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science foundation (NSF) announces the following meeting.

Name: Advisory Panel for Developmental Mechanisms (1141).

Date and Time: April 18–20, 2001; 8:30 a.m.–5 p.m.

Place: NSF, Room 360, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Part-open.

Contact Persons: Dr. Judith Plesset and Dr. Susan Singer, Program Directors, Developmental Mechanism, Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8417.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda:

Open Session: April 29th, 2001; 10 a.m. to 11 a.m.—discussion on research trends, opportunities and assessment procedures in Integrative Biology and Neuroscience with Dr. Mary Clutter, Assistant Director, Directorate for Biological Sciences.

Closed Session: April 18th, 2001, 8:30 a.m. to 6 p.m.; April 19th, 2001, 8:30 a.m. to 6 p.m.; April 20th, 2001, 8:30 a.m. to 10 a.m. and 11 a.m. to 5 p.m. To review and evaluate the Developmental Mechanisms proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 5, 2001.

Karen J. York,

Committee Management Officer.

[FR Doc. 01–3334 Filed 2–8–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Electrical and Communications Systems (1196).

Date and Time: February 22–23, 2001; 8:30 a.m. to 5 p.m.

Place: Room II–575, Stafford II Conference Center, National Science Foundation, 4121 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Filbert Bartoli, Program Director, Room 675, Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–8339.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Unsolicited proposals submitted in response to the program announcement (NSF 00–2).

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 5, 2001.

Karen J. York,

Committee Management Officer.

[FR Doc. 01–3337 Filed 2–8–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Environmental Research and Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. Law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Environmental Research and Education (9487).

Dates: February 28, 2001; 8:30 a.m.–5:30 p.m. March 1, 2001; 8:30 a.m.–3:30 p.m.

Place: Room 1235, National Science Foundation, 4201 Wilson Blvd, Arlington, VA.

Type of Meeting: Open.

Contact Person: Dr. Margaret Cavanaugh, Office of the Director, National Science Foundation, Suite 1205, 4201 Wilson Blvd, Arlington, Virginia 22230. Phone 703–292–8002.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight concerning support for environmental research and education.

Agenda:

February 28—Overview of present portfolio in environmental research and education. Discussion of reports by the National Science Board and the National Research Council on directions of environmental research. Advisory Committee responsibilities and organization.

March 1—Long-term planning for the environmental portfolio. Advisory Committee subcommittee meetings on education, infrastructure, communication, evaluation and other areas as related to environmental research and education.

Dated: February 2, 2001.

Karen J. York,

Committee Management Officer.

[FR Doc. 01–3335 Filed 2–8–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Experimental and Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announce the following meeting:

Name: Special Emphasis Panel in Experimental and Integrative Activities (1193)

Date/Time: March 8–9, 2001; 8:30 a.m. to 6 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Frederica Darema, National Science Foundation, 4201 Wilson Blvd., Suite 1160. Telephone: (703) 292–8980.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate NSF Next Generation Software proposals as part of selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4), and (6) of the Government in the Sunshine Act.

Dated: February 2, 2001.

Karen J. York,

Committee Management Officer.

[FR Doc. 01–3333 Filed 2–8–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 55–22136–SP; ASLBP No. 01–788–01–SP]

Michael L. Piasecki; Designation of Presiding Officer

Pursuant to delegation by the Commission, *see* 37 Reg. 28,710 (Dec. 29, 1972), and the Commission's regulations, *see* 10 CFR 2.1201, 2.1207, notice is hereby given that a single member of the Atomic Safety and Licensing Board Panel is designated as Presiding Officer to conduct further proceedings in accordance with 10 CFR 2.1209 in the following case:

Michael L. Piasecki

(Denial of Reactor Operator's License)

The hearing will be conducted pursuant to 10 CFR Part 2, Subpart L, of the Commission's Regulations, ''Informal Hearing Procedures for Adjudications In Materials and Operator Licensing Proceedings.'' This proceeding concerns Mr. Piasecki's January 11, 2001 request for a hearing to challenge the NRC staff's denial of his reactor operator's license application as reflected in the staff's December 27, 2000 letter to Mr. Piasecki.

The Presiding Officer in this proceeding is Administrative Judge Ivan W. Smith. Pursuant to the provisions of 10 CFR 2.722, 2.1209, Administrative Judge Charles N. Kelber has been appointed to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents, and other materials shall be filed with Judge Smith and Judge Kelber in accordance with 10 CFR 2.1203. Their addresses are:

Administrative Judge Ivan W. Smith, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001

Dr. Charles N. Kelber, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001

Issued at Rockville, Maryland, this 5th day of February 2001.

G. Paul Bollwerk III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 01–3367 Filed 2–8–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–317 and 50–318]

Calvert Cliffs Nuclear Power Plant, Inc.; Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from certain requirements of Appendix G to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50) for Renewed Facility Operating License Nos. DPR–53 and DPR–69, issued to Calvert Cliffs Nuclear Power Plant, Inc. (CCNPPI or the licensee) for operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 (CCNPP), located in Calvert County, Maryland.

Environmental Assessment

Identification of the Proposed Action

Appendix G to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50) requires that pressure-temperature (P–T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak rate testing conditions. Specifically, 10 CFR Part 50, Appendix G, states, ''The appropriate requirements on both the pressure-temperature limits and the minimum permissible temperature must be met for all conditions.'' Appendix G of 10 CFR Part 50 goes on to specify that the requirements for these limits are the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code), Section XI, Appendix G, limits.

The licensee requested in its submittal dated September 14, 2000, that the staff exempt CCNPP from the specific requirement of Appendix G to 10 CFR Part 50 that the P–T limits meet the safety margin requirements specified in the ASME Code, Section XI, Appendix G and instead use an alternate fracture toughness curve shown in the ASME Code, Section XI, Appendix A as permitted by ASME Code Case N–640. Code Case N–640 permits the use of an alternate reference fracture toughness (K_{IC} fracture toughness curve instead of K_{1a} fracture toughness curve) for reactor vessel materials in determining the P–T limits. Since the K_{IC} fracture toughness curve shown in ASME Code, Section XI, Appendix A, Figure A–2200–1 (the K_{IC} fracture toughness curve) provides greater allowable fracture toughness than the corresponding K_{1a} fracture toughness curve of ASME Code, Section XI, Appendix G, Figure G–2210–01, using Code Case N–640 for establishing the P–T limits would be less conservative than the methodology currently endorsed by 10 CFR Part 50, Appendix G, and therefore, an exemption to apply the Code Case would be required.

The proposed action is in accordance with the licensee's application for exemption dated September 14, 2000.

The Need for the Proposed Action

Because the RCS P–T operating window is defined by the P–T operating and test limit curves developed in accordance with the ASME Code, Section XI, Appendix G, procedure, continued operation of CCNPP with the present P–T curves without the relief provided by ASME Code Case N–640 would unnecessarily require the RPVs to maintain a temperature exceeding 212 °F in a limited operating window during the pressure test. Consequently, steam vapor hazards would continue to be one of the safety concerns for personnel conducting inspections in primary containment. Implementation of the proposed P–T curves, as allowed by ASME Code Case N–640, does not significantly reduce the margin of safety and would eliminate steam vapor hazards by allowing inspections in primary containment to be conducted at a lower coolant temperature.

10 CFR 50.60(b) allows proposed alternatives to the requirements of Appendix G to be used when an exemption is granted by the Commission under 10 CFR 50.12.

In the request for exemption to use Code Case N–640, the staff has determined that, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the regulation will continue to be served by the implementation of this Code Case.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the exemption described above would provide an adequate margin of safety against brittle failure of the CCNPP RPVs.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological environmental impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, dated April 1984.

Agencies and Persons Consulted

In accordance with its stated policy, on January 31, 2001, the staff consulted with the Maryland State official, R. McLean of the Maryland Department of Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments.

Findings of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated September 14, 2000, which is available for public inspection at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, http://www.nrc.gov (the Electronic Reading Room).

Dated at Rockville, Maryland, this 2nd day of February 2001.

For the Nuclear Regulatory Commission.

Donna Skay,

Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–3366 Filed 2–8–01; 8:45 am]

BILLING CODE 7590–01–U

OFFICE OF MANAGEMENT AND BUDGET

Public Availability of Year 2000 Agency Inventories Under the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270) (''FAIR Act'')

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of public availability of commercial activities inventories.

SUMMARY: Commercial Activities Inventories are now available to the public from the agencies listed below, in accordance with the ''Federal Activities Inventory Reform Act of 1998'' (Public Law 105–270) (''FAIR Act''). This is the third and final notification of the release of the 2000 FAIR Act inventories. In addition, the Office of Federal Procurement Policy has prepared and has made available a summary FAIR Act User's Guide through its Internet site: *http://www.whitehouse.gov/OMB/procurement/index.html.* This User's Guide will help interested parties review 2000 FAIR Act inventories, and will also include the web-site addresses to access agency inventories.

The FAIR Act requires that OMB publish an announcement of public availability of agency Commercial Activities Inventories upon completion of OMB's review and consultation process concerning the content of the agencies' inventory submissions. OMB has now completed this process for the year 2000.

The attached Commercial Activities Inventories are now available.

Mitchell E. Daniels, Jr.,

Director.

Attachment.

Agency Contact

Department of Agriculture (OIG): Del Thornsbury, 202–720–4414; Website: *www.usda.gov/oig*

American Battle Monuments Commission: Anthony Corea, 703–696–6898; Website: *www.usabmc.com*

Arlington National Cemetery: Rory Smith, 703–614–5060; Website: *www.arlingtoncemetery.org/*

Armed Forces Retirement Home: Rick Coleman, 202–730–3504; Website: *www.afrh.com/FY00FAIR.htm*

Central Intelligence Agency: CIA Office of Public Affairs, 703–482–0623; No website available.

Department of Defense: Paul Solomon, 703–917–7431; Website: *http://gravity.lmi.org/dodfair*

Department of Defense (OIG): Wayne Berry, 703–604–8789; Website: *www.dodig.osd.mil*

Defense Nuclear Facilities Standard Board: Andrew Thibadeau, 202–694–7000; Website: *www.dnfsb.gov*

Department of Energy: Mark R. Hively, 202–586–5655; Website: *www.pr.doe.gov/a76.htm*

Farm Credit Administration: Phillip Shebest, 703–883–4146; Website: *www.fca.gov*

Federal Communications Commission: Mark Reger, 202–418–1925; Website: *www.fcc.gov/omd/Reports/Fairact.doc*

Federal Communications Commission (OIG): H. Walker Feaster, III, 202–418–1925; Website: *www.fcc.gov/oig/#annual*

Federal Energy Regulatory Commission: Donald Shamley, 202–208–1088; Website: *www.ferc.fed.us*

Federal Financial Institutions Examinations Council Appraisal Subcommittee: Marc L. Weinberg, 202–872–7520; Website: *www.asc.gov*

Federal Housing Finance Board: David A. Lee, 202–408–2514; Website: *www.fhfb.gov*

Federal Maritime Commission: Bruce Dombrowski, 202–523–5800; Website: *www.fmc.gov*

Federal Trade Commission: Elliott Davis, 202–326–2022; Website: *www.ftc.gov*

Department of Housing and Urban Development (OIG): Stanley J. McLeod, 202–708–3444, ext. 156; Website: *www.hud.gov/oig/oigindex.html*

Department of the Interior: Jennings Wong, 202–208–6704; Website: *www.ios.doi.gov/pam/pamhome.html*

Department of the Interior (OIG): Richard Farr, 202–208–4599; Website: *www.oig.doi.gov*

Department of Justice: Larry Silvis, 202–616–3754; Website: *http://www.usdoj.gov/jmd/pe/preface.htm*

Department of Labor: Al Stewart, 202–693–4021; Website: *www.dol.gov*

Morris Udall Foundation: Chris Helms, 520–670–5299; Website: *www.Udall.gov*

National Aeronautics and Space Administration (OIG): Charles Heaton, 202–358–2561; Website: *www.hq.nasa.gov/fair/*

National Archives and Records Administration: Lori Lasowski 301–713–7360, ext. 257; Website: *www.nara.gov/nara/co_farep*

National Archives and Records Administration (OIG): James Springs, 301–713–7300, ext. 224; Website: *www.nara.gov*

National Capital Planning Commission: BeLinda Hollman, 202–482–7200; Website: *www.ncpc.gov*

National Credit Union Administration: Jared Barlage, 202–416–8721; Website: *www.ncua.gov*

National Endowment of the Humanities: Barry Maynes, 202–606–8233; Website: *www.neh.gov*

National Transportation Safety Board: Bill Love, 202–314–6088; Website: www.ntsb.gov/acquire/NTSB_MN.htm

Nuclear Regulatory Commission: Ronald Thompson, 301–415–6732; Website: *www.nrc.gov/ADM/CONTRACT/contract.html*

Nuclear Regulatory Commission (OIG): David C. Lee, 301–415–5930; Website: *www.nrc.gov/nrc/oig/fair/index.html*

Nuclear Waste Technical Review Board: Dr. William Barnard, 703–235–4473; Website: *www.nwtrb.gov*

Office of Navaho and Hopi Indian Relocation: Michael J. McAlister, 520–779–2721; No website available

Securities and Exchange Commission: Jayne Seidman, 202–942–4000; Website: *www.sec.gov*

Selective Service System: Calvin Montgomery, 703–605–4038; Website: *www.sss.gov*

Small Business Administration: Theodore Wartell, 202–205–7307; Website: *www.sba.gov*

Small Business Administration (OIG): Bridget Bean, 202–205–6580; Website: *www.sba.gov/ig*

Social Security Administration: Phil Kelly, 410–965–4656; Website: *www.ssa.gov/budget*

Department of State: Robert McFadden, 202–647–7780; Website: www.state.gov/www/dept/fmp/related_sites.html

Department of Transportation: Bill Moga, 202–366–9666; Website: *www.dot.gov*

Department of Transportation (OIG): Sam Davis, 202–366–1444; Website: *www.oig.dot.gov*

Department of the Treasury: Kevin Whitfield, 202–622–0248; Website: *http://www.treas.gov/fair*

Department of the Treasury (OIG): Primary: Robert Hardos, 202–927–5200, Secondary: Donna Ching, 202–927–5374; Website: *www.treas.gov/fair/2000/oig2000.pdf*

Department of the Treasury (Tax): Agapi Doulaveris, 202–622–3968; Website: *www.treas.gov/fair/2000/index.html*

U.S. Commission on Civil Rights: George Harbison, 202–376–8356; Website: *www.usccr.gov*

U.S. Commodity Futures Trading Commission: Emory Bevill, 202–418–5187; Website: *www.cftc.gov/ofm/fairactexhibit.pdf*

U.S. International Trade Commission: Charles W. Sole, Jr., 202–205–2746; Website: *www.usitc.gov/procurement/fair.pdf*

U.S. Patent and Trademark Office: Daniel Haigler, 703–305–8175; Website: *www.uspto.gov*

[FR Doc. 01–3396 Filed 2–8–01; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting; Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of February 12, 2001.

A closed meeting will be held on Tuesday, February 13, 2001, at 11:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(A) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting will be:

Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: February 6, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–3451 Filed 2–6–01; 4:19 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43926; File No. SR–BSE–00–21]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to the Trading of S&P Global 100 Index Fund Shares

February 5, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 26, 2000, the Boston Stock Exchange, Inc. (''Exchange'' or ''BSE'') 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 the BSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE proposes to trade, pursuant to unlisted trading privileges (''UTP''), shares of an exchange traded fund (the ''Fund'') based on the S&P Global 100 Index. The text of the proposed rule change is available at the Office of the Secretary, the BSE or the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the BSE 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 BSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 28, 2000, the Commission approved the proposed rule change of a new listing standard, *Chapter XXIV–B, Index Fund Shares,* which allowed the BSE to list and trade Index Fund Shares.[3] *Chapter XXIV–B* also permits the BSE to list or trade Index Fund Shares under the expedited procedures described in Rule 19b–4(e) under the Act, so long as such securities meet specific structural standards. The BSE has used these procedures to trade, pursuant to UTP, several Index Fund Shares, including series of the iShares Trust based on domestic stock indices.

The BSE now proposes to trade, via UTP, shares of the Fund based on the S&P Global 100 Index (the ''Index'' or ''Underlying Index'') pursuant to *Chapter XXIV–B, Index Fund Shares.*[4] The Fund is included in the iShare Trust (the ''Trust''),[5] and Barclays Global Fund Advisors (''BGFA''), a subsidiary of Barclays Global Investors, N.A. (''BGI''), acts as the advisor (the ''Advisor'') to the Fund. Standard & Poor's (''S&P''), a division of The McGraw-Hill Companies, Inc., is the Index provider. The Index is sponsored by S&P and the New York Stock Exchange, Inc. (''NYSE''), with the additional collaboration of several major exchanges from around the world.

As described below, S&P Global 100 Index Fund Shares are structurally similar to the Index Fund Shares already approved for trading on the BSE. The information about the Fund is based on the recent rule filing by the NYSE.[6]

The Underlying Index. A detailed description of the Underlying Index for the Fund was prepared by S&P and filed by the NYSE as Exhibit 2 in its submission.[7] The description includes, but is not limited to, information regarding index description, component selection criteria, country representation, index maintenance, and industry group distribution by market capitalization. The Underlying Index description, including any changes thereto, may be found on the S&P Global

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 42988 (June 28, 2000), 65 FR 42041 (July 7, 2000) (SR–BSE–00–05).

[4] The Exchange recognizes that the Fund will trade pursuant to its Index Fund Shares Rules and Rule 19b–4(f)(6), not Rule 19b–4(e). Telephone conversation between Ester Radovsky, Listings Analyst, BSE, and Heather Traeger, Attorney, Division of Market Regulation, Commission, January 30, 2001.

[5] The Trust is registered under the Investment Company Act of 1940, as amended (''1940 Act''). The Trust has filed with the Commission a Registration Statement on the Form N–1/A under the Securities Act of 1933, as amended and under the 1940 Act relating to the Fund (File No. 333–92935 and 811–09729).

[6] *See* Securities Exchange Act Release No. 43658 (December 2, 2000) 65 FR 77408 (December 11, 2000) (SR–NYSE–00–53).

[7] *Id.*

web site at http://www.spglobal.com/ssindexmainglobal100.html.

General description of the fund. The Fund offers and issues shares (''Fund Shares'') at their net asset value (''NAV'') only in aggregations of a specified number of Fund Shares (referred to as a ''Creation Unit''), generally in exchange for a basket of equity securities included in the Underlying Index (the ''Deposit Securities''), together with the deposit of a specified cash payment (the ''Cash Component'').[8] Fund Shares are redeemable only in Creation Unit aggregations, and, generally, in exchange for portfolio securities and a specified cash payment. Creation Units are aggregations of 50,000 Fund Shares. The Trust reserves the right to offer a ''cash'' option for creations and redemptions of Fund Shares.

''Passive'' or indexing investment approach. The Fund seeks investment results that, before expenses, correspond generally to the price and yield performance of companies in the Index. The Advisor uses a ''passive'' or indexing approach in seeking to achieve the Fund's investment objective.

Representative sampling. The Fund uses representative sampling to track the Underlying Index. This means that the Fund is invested in a representative sample of stocks in the Underlying Index, which have a similar investment profile as the Underlying Index. Stocks selected have aggregate investment characteristics (based on market capitalization and industry weighings), fundamental characteristics (such as return variability, earnings valuation, and yield), and liquidity measures similar to those of the relevant Underlying Index. A fund that uses representatives sampling generally does not hold all of the stocks included in its underlying index.

The Fund invests at least 90% of its total assets in the stocks of the Underlying Index. The Fund may hold up to 10% of its total assets in stocks not included in the Underlying Index. For example, the Advisory may invest in stocks not included in the Underlying Index in order to reflect various corporate actions (such as mergers) and other changes in the Underlying Index (such as reconstitutions, additions and deletions). The Fund may also invest in stocks outside the underlying Index to meet the diversification requirements of a regulated investment company under the Internal Revenue Code (the ''Code'').[9] As long as the Fund invests at least 90% of its total assets in the stocks of the Underlying Index, it may also invest its other assets in futures contracts, options on futures contracts, options, and swaps related to the Underlying Index, as well as cash and cash equivalents.

Correlation. An index is a theoretical financial calculation while the Index Fund Share is an actual investment portfolio. The performance of the Fund and the Underlying Index will vary somewhat due to transaction costs, market impact, corporate actions (such as mergers and spin-offs) and timing variances. It is expected that over time, the correlation between the Fund's performance and that of the Underlying Index, before fees and expenses, will be 95% or better. A figure of 100% would indicate perfect correlation. Any correlation of less than 100% is called a ''tracking error.''

Industry concentration policy. The Fund does not concentrate its investments (*i.e.,* hold 25% or more of its total assets in the stocks of a particular industry or group of industries). However, the Fund does concentrate to approximately the same extent that the Underlying Index concentrates in the stocks of a particular industry or group of industries. For purposes of this limitation, securities of the U.S. Government (including its agencies and instrumentalities), repurchase agreements collateralized by U.S. Government securities, and securities of state or municipal governments and their political subdivisions are not considered to be issued by members of any industry.

Creations and redemptions of fund shares. The Fund Shares are ''created'' at their NAV by specialists, large investors, and institutions only in Creation Units of 50,000 Shares. A ''creator'' deposits into the Fund a specified portfolio of stocks closely approximating the holdings of the Fund (the ''Deposit Securities'') and specified amount of cash (the ''Cash Component'') in exchange for 50,000 Fund Shares.

Similarly, the Fund Shares can only be redeemed in Creation Units of 50,000 Fund Shares, principally in-kind for a specified portfolio of stocks held by the Fund then comprising the Deposit Securities and the then applicable Cash Component. Except when aggregated in Creation Units, Fund Shares are not redeemable. The prices at which creations and redemptions occur are based on the next calculation of NAV after an order is received in proper form. Creations and redemptions must be made through a firm that is either a member of the Continuous Net Settlement System of the National Securities Clearing Corporation (''NSCC'') or a Depository Trust Company (''DTC'') participant and, in each case, must have executed an agreement with the Distributor with respect to creations and redemptions of Creation Unit aggregations (''Participant Agreement''). The Trust imposes transaction fees in connection with creation and redemption transactions.

Availability of information regarding fund shares and underlying indices. The list of names and amount of each security constituting the current Deposit Securities, and the Cash Component effective as of the previous business day, per outstanding share of the Fund, is made available each business day. In addition, an amount representing the sum of the estimated Cash Component effective through and including the previous business day, plus the current value of the Deposit Securities in U.S. dollars, on a per share basis is disseminated every 15 seconds during the Exchange's regular trading hours, through the facilities of the Consolidated Tape Association (''CTA''). The value of the Underlying Index is updated intra-day on a real-time basis as individual component securities of the Underlying Index change in price. These intra-day values of the Underlying Index are disseminated every 15 seconds throughout the trading day. In addition, a value for the Underlying Index is disseminated once each trading day, based on closing prices in the relevant exchange market.

[8] The Cash Component is an amount equal to the Balancing Amount. The ''Balancing Amount'' is an amount equal to the difference between the NAV of the Fund Shares (per Creation Unit) and the ''Deposit Amount.'' The ''Deposit Amount'' is an amount equal to the market value of the Deposit Securities. If the Balancing Amount is a positive number (*i.e.,* the NAV per Creation Unit exceeds the Deposit Amount), the Cash Component will be paid to the Trust by the creator. If the Balancing Amount is a negative number (*i.e.,* the NAV per Creation Unit is less than the Deposit Amount), the creator will receive cash in an amount equal to the differential.

[9] In order for the Fund to qualify to tax treatment as a regulated investment company, it must meet several requirements under the Code. Among these is the requirement that, at the close of each quarter of the Fund's taxable year, (1) at least 50 percent of the market value of the Fund's total assets must be represented by cash items, U.S. government securities, securities for other regulated investment companies and other securities, with such other securities limited for the purpose of this calculation in respect to any one issuer to an amount not greater than 5 percent of the value of the Fund's assets and not greater than 10 percent of the outstanding voting securities of such issuer, and (2) not more than 25 percent of the value of its total assets may be invested in securities of any one issuer, or two or more issuers that are controlled by the Fund (within the meaning of section 851(b)(4)(B) of the Code) and that are engaged in the same or similar trades or business (other than U.S. government securities of other regulated investment companies.)

The Fund makes available on a daily basis the names and required number of shares of each of the Deposit Securities in a Creation Unit aggregation, as well as information regarding the cash-balancing amount. The NAV for the Fund is calculated and disseminated daily. In addition, the Adviser maintains a web site that provides information about the returns and methodology of various indices, which includes the Underlying Index for the Fund. The Trust also maintains a web site that includes the Fund prospectus and additional quantitative information that is updated on a daily basis, including daily trading volume and closing price for the Fund. There is also a variety of data disseminated with respect to the Index on a daily basis by means of CTA including shares outstanding and cash amount per Creation Unit aggregation, which is made available prior to the opening of the trading on the Exchange. The closing prices of the Fund's Deposit Securities are readily available from, as applicable, the relevant exchanges, automated quotation systems, or on-line information services such as Bloomberg or Reuters.

Dissemination of indicative portfolio value. An updated indicative portfolio value (''Value'') for the Fund is disseminated through the CTA as calculated by a securities information provider (''Value Calculator''). The Value [10] is disseminated on a per Fund Share basis every 15 seconds during regular Exchange trading hours for the Fund.

The Value may not reflect the value of all securities included in the applicable Underlying Index. In addition, the Value does not necessarily reflect the precise composition of the current portfolio of securities held by the Fund at a particular point in time. Therefore, the Value on a per Fund Shares basis disseminated during the NYSE's trading hours should not be viewed as a real-time update of the NAV of the Fund, which is calculated only once a day. While the Value that is disseminated at 9:30 a.m. is expected to be generally very close to the most recently calculated NAV on a per Fund Shares basis, it is possible that the value of the portfolio of securities held by the Fund may diverge from the Deposit Securities Values during any trading day. In such case, the Value will not precisely reflect the value of the Fund portfolio.

However, during the trading day, the Value can be expected to closely approximate the value per Fund share of the portfolio of securities for the Fund except under unusual circumstances (*e.g.,* in the case of extensive rebalancing of multiple securities in the Fund at the same time by the Advisor). The circumstances that might cause the Value to be based on calculations different from the valuation per Fund share of the actual portfolio of the Fund would not be different than circumstances causing any index fund or trust to diverge from an underlying benchmark index.

For the Fund, the Value Calculator utilizes closing prices (in applicable foreign currency prices) in the principal foreign market(s) for securities in the Fund portfolio, and converts the price to U.S. dollars. This Value is updated every 15 second during the NYSE's trading hours to reflect change in currency exchange rates between the U.S. dollar and the applicable foreign currency. The Value also includes the applicable Cash Component for the Fund. For foreign stocks, the principal foreign markets that have trading hours overlapping regular trading hours on the NYSE, the Value Calculator will update the applicable Value every 15 seconds to reflect price changes in the applicable foreign market or markets, and convert such prices into U.S. dollars based on the current currency exchange rate. When the foreign market or markets are closed but the NYSE is open, the Value is updated every 15 seconds to reflect changes in currency exchange rates after the foreign markets close.

Trading of Fund Shares on the Exchange. The Fund will be subject to the criteria for initial and continued listing of Index Fund Shares described in *Chapter XXIV–B.*

The BSE will require that a minimum of 100,000 Shares be outstanding when trading begins at the BSE. This number of Shares is comparable to the number of shares outstanding when other Index Fund Shares began trading on the BSE. The BSE believes that the proposed minimum number of Shares required to be outstanding when trading begins on the BSE is sufficient to provide market liquidity and to further the Fund's objective to seek to provide investment results that correspond generally to the price and yield performance of the Index.

Fund Shares are registered in book-entry form through the DTC. Trading in Fund Shares on the BSE will be effected until 4:00 p.m. each business day. The minimum trading variation for the Fund will be $.01 of $1.00.

Dividends from net investment income will be declared and paid at least annually by the Fund. Distributions of realized securities gains, if any, generally will be declared and paid at least once a year, but the Fund may make distributions on a more frequent basis to comply with distribution requirements of the Code. The Fund may make the DTC book-entry Dividend Reinvestment Service available for use by beneficial owners of the Fund through DTC Participants for reinvestment of their cash proceeds.

As an Index Fund Shares, the Fund is considered a ''security'' under the Rules of the Exchange and is subject to all applicable trading rules, including the provisions of *Chapter II, Section (4)* (ITS ''Trade-Throughs and Locked Markets''), which prohibit BSE members from initiating trade-throughs for ITS securities, as well as rules governing priority, parity and precedence of orders, market volatility related trading halt provisions and responsibilities of the assigned specialist firm. Exchange equity margin rules will apply.

The Fund is also subject to the Exchange's rule relating to trading halts due to extraordinary market volatility (*Chapter II, Section 34A),* and the Exchange's rule which allows Exchange officials to halt trading in specific securities, under certain circumstances (*Chapter II, Section 34B*). In exercising the discretion described in *Chapter II,* appropriate BSE officials may consider a variety of factors, including the extent to which trading is not occurring in a stock underlying the index and whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

The BSE's surveillance procedures for the Fund will be similar to the procedures used for other Index Fund Shares and will incorporate and rely upon existing BSE surveillance systems.

The Exchange will issue a circular to its members and member organizations, prior to the commencement of trading, alerting them to the characteristics of the Fund Shares, including the fact that Shares are not individually redeemable, but are redeemable only in Creation Units. The circular will also confirm that investors purchasing Fund Shares will be required to receive a prospectus prior to or concurrently with the

[10] The equity securities values included in the Value are the values of the Deposit Securities, which are the same as the portfolio that is utilized generally in connection with creations and redemptions of the Fund Shares Creation Unit aggregations on that day. The equity securities included in the Value reflect the same market capitalization weighting as the Deposit Securities in the portfolio for the Fund. In addition to the value of the Deposit Securities for the Fund, the Value includes the Cash Component. The Value also reflects changes in currency exchange rates between the U.S. dollar and the applicable home foreign currency.

confirmation of a transaction in the Shares, will inform members that the procedures for purchases and redemptions of Shares in Creation Unit Size are described in the Trust Prospectus; and will confirm for members that the Fund Shares are subject to existing Exchange rules relating to trading halts. Finally, the circular will inform members that before a member, member organization, or person associated with a member organization should make a determination that the Fund is suitable for the customer and the person making the recommendation should have a reasonable basis for believing, at the time of making the recommendation, that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks and the special characteristics of the recommended transaction and is financially able to bear the risks of the recommended transaction.

2. Statutory Basis.

The BSE believes that the proposed rule change is consistent with section 6(b)(5)[11] of the Act, which requires 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 protest investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The BSE seeks to trade issues already trading on another exchange and believes that this increased competition among markets can benefit investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The BSE has neither solicited nor received any written comments on the proposed rule change.

[11] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest: (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the BSE has given notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the rule change, or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The BSE seeks to have the proposed rule change become operative on February 2, 2001, in order to allow the BSE to immediately trade, pursuant to unlisted trading privileges, shares of S&P Global 100 Index. The Shares are already being traded on the NYSE.

The Commission believes that it is consistent with the protection of investors and the public interest that the proposed rule change becomes operative immediately as of February 2, 2001.[14] 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.

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.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the BSE.

All submissions should refer to File No. SR–BSE–00–21 and should be submitted by March 2, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–8010 Filed 2–8–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43924; File No. SR–CHX–01–04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Membership Dues and Fees

February 5, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 30, 2001, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The 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,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] *See* Securities Exchange Act Release No. 43778

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its membership dues and fees schedule (the ''Schedule''), retroactive to January 1, 2001, to reinstate a monthly cap on transaction fees of $.40 per 100 average monthly gross round lot shares. The text of the proposed rule change is below. Proposed new language is in italics.

Membership Dues and Fees

* * * * *

F. Transaction and Order Processing Fees

4. Transaction Fees

a.–g. No change to text.

h. Effective January 1, 2001, monthly maximums for fees:

(1) Maximum monthly transaction fees for orders sent via MAX: $7,000;

(2) Maximum monthly transaction fee for transactions in NASDAQ/NMS Securities: $110,000;

(3) Maximum monthly transaction fee for transactions in Dual Trading System Securities: $110,000;

(4) Maximum monthly transaction fees shall not exceed the lesser of that specified in (1), (2) or (3) above, or $.40 per 100 average monthly gross round lot shares.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organizations's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 18, 2000, the Exchange filed a proposed rule change to amend the Schedule in several ways.[4] Among other things, the proposal made changes to the CHX's transaction fee structure by: (a) Setting a flat per share fee, instead of a graduated fee based on the number of shares traded, for agency transactions in certain securities that are executed through a floor broker; (b) raising the current caps on transaction fees paid by member firms; and (c) reorganizing the Schedule to include all of its transaction fees in the same place.

In the course of making these changes, the Exchange inadvertently omitted one of the monthly caps on transaction fees. The Exchange has instituted several fee caps, including dollar-valued caps on transactions sent through the CHX's MAX system and on transactions in both Nasdaq/NMS and Dual Trading System securities.[5] The cap to be reinstated through this proposal provides an additional ceiling on those fees by ensuring that a member's maximum monthly transaction fees will not exceed $.40 per 100 average monthly gross round lot shares, if this calculation results in a lower fee payment.

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 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.

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–01–04, and should be submitted by March 2, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–3363 Filed 2–8–01; 8:45 am]

BILLING CODE 8010–01–M

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] *See* Securities Exchange Act Release No. 43778 (December 28, 2000), 66 FR 1164 (January 5, 2001) (SR–CHX–00–38).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43922; File No. SR–ISE–00–22]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by International Securities Exchange LLC, Relating to Market Maker Financial Requirements

February 2, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 28, 2000, the International Securities Exchange LLC (''Exchange'' or ''ISE'') 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 the Exchange. The Commission is publishing this

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISE is proposing to amend Exchange Rule 809 regarding ''Financial Requirements for Market Makers.'' Specifically, the proposal would amend and further define the calculations necessary to determine the minimum financial requirements for the Exchange's market makers, and specify certain reporting requirements when a market maker fails to maintain the minimum financial requirements. The text of the proposed rule change follows. New text is italicized and deleted text is bracketed.

Rule 809. Financial Requirements for Market Makers

(a) Primary Market Makers. Every Primary Market Maker shall maintain [a cash or liquid asset position equal to the greater of] *net liquidating equity of not less than $3,250,000 plus $25,000 excess equity for each underlying security upon which appointed options are open for trading in excess of the initial ten (10) underlying securities* [$5,000,000 or an amount sufficient to assume a position of twenty (20) options contracts of each class in which such Primary Market Maker is appointed (as computed on the basis of that series within each such class having the highest current premium)].

(b) Competitive Market Makers. Every Competitive Market Maker shall maintain [a cash or liquid asset position equal to the greater of] *net liquidating equity of not less than* $1,000,000 [or an amount sufficient to assume a position of ten (10) options contracts in each class of options to which the Competitive Market Maker is appointed (as computed on the basis of that series within each such class having the highest current premium)].

(c) Each market maker that makes an arrangement to finance his transactions as a market maker must identify to the Exchange the source of the financing and its terms. The Exchange must be informed immediately of the intention of any party to terminate or change any such arrangement.

Supplemental Material to Rule 809

.01 For purposes of Rule 809, the term ''net liquidating equity'' means the sum of positive cash balances and long securities positions less negative cash balances and short securities positions.

.02 Each day that a Member's net liquidating equity is less than 120% of the minimum level required by Rule 809, the Member must notify the Exchange of its equity level on a daily basis from the date the net liquidating equity first comes below this level until and including three days following the date that the equity first comes above this level.

.03 If a Member's net liquidating equity falls below the minimum level required by this Rule, the Member must immediately notify the Exchange of the deficiency and must submit within five (5) business days a business plan for raising its equity to the appropriate level. The Exchange may determine to appoint an interim Primary Market Maker when, in its discretion, the Member's failure to maintain the minimum level required by this Rule limits its ability to comply with market making obligations under the Rules.

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. ISE has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange Rule 809 sets forth the minimum financial requirements for market makers. Currently, Exchange Rule 809 provides that every Primary Market Maker (''PMM'') maintain a cash or liquid asset position equal to the greater of $5,000,000 or an amount sufficient to assume a position of twenty (20) options contracts of each class in which the PMM is appointed. Exchange Rule 809 similarly provides that every Competitive Market Maker (''CMM'') maintain a cash or liquid asset position equal to the greater of $1,000,000 or an amount sufficient to assume a position of ten (10) options contracts in each class of options to which the CMM is appointed.

The Exchange proposes to eliminate the option position component in calculating the minimum equity. With respect to CMMs, the Exchange believes that the option position component in the current rule places an unnecessary burden on its members to make the variable calculation on a daily basis. The flat $1 million requirements far exceeds the minimum equity requirements for market makers on the other four options exchanges, and it is unlikely that the option position component would exceed $1 million. With respect to PMMs, the proposed amendment would require PMMs to maintain $3.25 million plus $25,000 for each issue over 10. When the Exchange phases-in trading in 600 options with approximately 60 options trading in each of its 10 groups or ''bins,'' this requirement would equal $4.5 million for PMMs trading in one bin, and $6.0 million for a PMM trading in two bins.[3]

The Exchange also proposes to update its rule to replace the phrase ''cash or liquid asset position'' with ''net liquidating equity,'' and to define the later term. This will conform our rule to the Chicago Board Options Exchange's (''CBOE'') rule.[4] The proposed definition of net liquidating equity, which is the sum of positive cash balances and long securities positions less negative cash balances and short securities positions, is the same as the CBOE definition of the term in CBOE Rule 12.3(f)(1)(F).

The Exchange further proposes to adopt notification requirements. Market makers would be required to notify the Exchange if their equity fails to exceed the minimum requirement by at least 20 percent. This will allow the Exchange to monitor carefully any firm that might be experiencing financial difficulties and to take actions to minimize any potential risk to the Exchange or investors. A market maker that falls below the equity requirement must immediately notify the Exchange of the deficiency and submit a plan for raising its equity to the appropriate level.

Finally, in the case of a PMM with deficient equity, the Exchange may determine to appoint an interim PMM. The Exchange will do so when, in its discretion, the Member's failure to maintain the minimum level limits its ability to comply with market making obligations.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(5)[5] that an exchange

[3] Pursuant to Exchange Rule 317(a), a member cannot be approved to trade in more than two bins as a PMM.

[4] *See* CBOE Rule 8.86, which states that ''[e]ach DPM shall maintain (i) net liquidating equity in its DPM account of not less than $100,000, and in conformity with such guidelines as the MTS Committee may establish from time to time.''

[5] 15 U.S.C. 78f(b)(5).

have rules that are designed to promote just and equitable principles of trade, 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 not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange 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. 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 such proposed rule change; or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to File No. SR–ISE–00–22 and should be submitted by March 2, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–3340 Filed 2–8–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43928; File No. SR–NASD–00–77]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Registration Requirements for Limited Principals-Financial and Operations and Limited Principals-Introducing Broker/Dealer Financial and Operations

February 5, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 20, 2000, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, NASD Regulation, Inc. (''NASD Regulation'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation proposes to amend three rules: NASD Rule 1022(b) (Limited Principal-Financial and Operations (''FINOP'')), NASD Rule 1022(c) (Limited Principal-Introducing Broker/Dealer Financial and Operations (''Introducing FINOP'')), and NASD Rule 9610 (Procedures for Exemptions). The proposed amendments to NASD Rules 1022(b) and 1022(c) would (1) clarify the applicability of NASD Rules 1022(b) and 1022(c) to members by making citations in these rules consistent with Exchange Rule 14c3–1 (the ''Net Capital Rule'')[3]; (2) eliminate the ability of a member that is subject to the Net Capital Rule to request an exemption from the requirement under NASD Rule 1022(b) to have a FINOP; and (3) exclude from the requirements of NASD Rules 1022(b) and 1022(c) those firms are exempt from or otherwise not subject to the Net Capital Rule. The proposed amendments to NASD Rule 9610(a) would eliminate NASD Rule 1022 from the list of rules from which a member may seek exemptive relief. The proposed amendments to NASD Rule 9610(a) also would make a technical change to clarify that the Rule 9600 Series merely sets forth procedures for seeking exemptive relief, and that the type of relief that may be requested, and the authority to grant such relief, is found in the rules listed in NASD Rule 9610(a).

Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

1020. Registration of Principals

* * * * *

1022. Categories of Principal Registration

(a) No change

(b) Limited Principal-Financial and Operations

(1) Every member of the Association, [unless exempted by subparagraph (4),] *that is operating pursuant to the provisions of SEC Rule 15c3–1 (a)(1)(ii), (a)(2)(i) or (a)(8),* shall designate as Limited Principal-Financial and Operations those persons associated with it, at least one of whom shall be its chief financial officer, who performs the duties described in subparagraph [(b)](2) hereof. Each person associated with a member who performs such duties shall be required to register as a Limited Principal-Financial and Operations with the Association and shall pass an appropriate Qualification Examination before such registration may become effective.

(2) and (3) No change.

[(4) Pursuant to the Rule 9600 Series, the Association may exempt a member or an applicant for membership in the Association from the requirement to have a Limited Principal-Financial and Operations if:]

[(A) it has been expressly exempted by the Commission from SEC Rule 15c3–1(b)(1)(iii);]

[(B) it is subject to the provisions of SEC Rule 15c3–1(a)(2) or to Section 402.2(c) of the rules of the Treasury Department.]

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[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.15c3–1.

[(5)] *(4)* A person registered solely as a Limited Principal-Financial and Operations shall not be qualified to function in a principal capacity with responsibility over any area of business activity not *described* [prescribed] in subparagraph (2) hereof.

(c) Limited Principal-Introducing Broker/Dealer Financial and Operations

(1) Every member of the Association, [which is operating pursuant to the provisions of SEC Rule 15c3–(a)(2)(i) or (vi) and to the provisions of SEC Rule 15c3–3(k)(2)(ii),] *that is subject to the requirements of SEC Rule 15c3–1, other than SEC Rule 15c3–1(a)(1)(ii), (a)(2)(i) or (a)(8),* shall designate as Limited Principal-Introducing Broker/Dealer Financial and Operations those persons associated with it, at least one of whom shall be its chief financial officer, who perform the duties described in [paragraph] *subparagraph* (2)[,] hereof. Each person associated with a member who performs such duties shall be required to register as a Limited Principal-Introducing Broker/Dealer Financial and Operations with the Association and shall pass an appropriate Qualification Examination before such registration may become effective.

(2) No change.

(3) Except as provided in Rule 1021(c), a person designated pursuant to the provisions of subparagraph (1) hereof, shall not be required to take the Limited Principal-Introducing Broker/Dealer Financial and Operations Examination and shall be qualified for registration as a Limited Principal-Introducing Broker/Dealer Financial and Operations if such a person is qualified to be registered or is registered as a Limited Principal-Financial and Operations [as defined in paragraph 2 hereof.] *pursuant to Rule 1022(b).*

(4) No change.

(d) through (g) No change.

* * * * *

9600. PROCEDURES FOR EXEMPTIONS

9610. Application

(a) Where to file

A member seeking [an exemption from] *exemptive relief provided in* Rules 1021, [1022,]1070, 2210, 2320, 2340, 2520, 2710, 2720, 2810, 2850, 2851, 2860, Interpretive Material 2860–1, 3010(b)(2), 3020, 3210, 3230, 3350, 8211, 8212, 8213, 11870, or 11900, Interpretive Material 2110–1, or Municipal Securities Rulemaking Board Rule G–37 shall file a written application with the appropriate department or staff of the Association and provide a copy of the application to the Office of General Counsel of NASD Regulation.

(b) and (c) No change

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASD Rules 1022(b) and 1022(c) set forth the registration requirements for FINOPs and Introducing FINOPs. FINOPs are required to take and pass the Series 27 Principal Examination. Introducing FINOPs are required to take and pass the Series 28 Principal Examination. The proposed amendments to NASD Rule 1022(b) would clarify that every broker or dealer that is operating pursuant to the provisions of Exchange Act Rule 15c3–1(a)(1)(ii) or (a)(2)(i)[4] (both of which subject brokers or dealers to a minimum net capital requirement of $250,000), or (a)(8)[5] (which subjects municipal securities brokers' brokers to a minimum $150,000 net capital requirement) must have a FINOP. The proposed amendments to NASD rule 1022(c) would clarify that every broker or dealer that is subject to the requirements of the Net Capital Rule, and is not required to employ a FINOP pursuant to NASD Rule 1022(b), is required to have at least one associated person who has registered as an Introducing FINOP. The proposed amendments to NASD Rule 1022(c) also would clarify that a person qualified as a Series 27 FINOP is not required to take the Series 28 Examination if he or she is employed as an Introducing FINOP.

In addition, the proposed amendments to NASD Rule 1022(b) would eliminate the provisions that allow a broker or dealer that is subject to the Net Capital Rule to seek an exemption from the requirement to have a FINOP. As a procedural matter, NASD Regulation proposes to amend NASD Rule 9610(a) to eliminate NASD Rule 1022 from the list of rules for which a member may file an application to seek exemptive relief. NASD Regulation believes that firms that are subject to the Net Capital Rule should not be exempted from the requirement to employ a FINOP or Introducing FINOP. In the rare instance that a firm believes that a particular individual should not be required to take and pass the Series 27 or Series 28 Examination based on that individual's experience and qualifications, the firm may seek an exam waiver for that individual pursuant to NASD Rule 1070(e).

The proposed amendments to NASD 1022(b) also would eliminate the ability, as well as the need, for members that are exempt from the Net Capital Rule to seek exemptive relief from the FINOP or Introducing FINOP requirements. As noted above, the proposed changes to both NASD Rule 1022(b) and 1022(c) would make clear that the requirements to have a FINOP or Introducing FINOP apply only to firms that are subject to the requirements of the Net Capital Rule. Members that are exempt from or otherwise not subject to the Net Capital Rule would no longer be subject to the requirements of either NASD Rule 1022(b) or NASD Rule 1022(c). Therefore, under the proposed amendments, it would no longer be necessary for such members to seek exemptive relief from the requirements of those rules.

The proposed amendments would have no effect on individuals who are currently grandfathered for the Series 27 or Series 28 Examination, because these persons are considered to possess the license for which they were grandfathered.[6] In addition, NASD Regulation represents that firms currently the subject of a FINOP waiver would not be subject to the proposed rule amendments.[7]

Finally, the proposed amendments to NASD Rule 9610(a) would make a technical change to clarify that the Rule 9600 Series merely sets forth procedures for seeking exemptive relief, and that the type of relief that may be requested, and the authority to grant such relief, is

[4] 17 CFR 240.15c3–1(a)(1)(ii), and (a)(2)(i).

[5] 17 CFR 240.15c3–1(a)(8).

[6] Only individuals who qualified as ''Financial Principals'' before the establishment of the Series 27 examination were grandfathered as FINOPs and were not required to take either the Series 27 or Series 28 examination.

[7] Telephone conversation between Shirley Weiss, Attorney, NASD Regulation, and Andrew Shipe, Attorney, Division of Market Regulation, Commission, on January 11, 2001.

found in the rules listed in NASD Rule 9610(a).

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[8] 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. NASD Regulation believes that the proposed rule change is designed to accomplish these ends by clarifying the applicability of NASD Rule 1022(b) and (c) to members by making the citations in the rules consistent with the Net Capital Rule and by eliminating the ability of brokers or dealers that are subject to the Net Capital Rule from operating without a FINOP or Introducing FINOP. The proposed rule change also would help members by clarifying the circumstances under which a FINOP must have taken and passed either Series 27 or Series 28 Examination.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference 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–00–77 and should be submitted by March 2, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

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[8] 15 U.S.C. 78o–3(b)(6).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43921; File No. SR–Phlx–00–107]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Listing and Trading of Options on Exchange-Traded Fund Shares

February 2, 2001.

Pursuant to section 19(b)91) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 21, 2000, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule changes 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 Phlx proposes to amend its rules to create listing criteria and amend trading rules to allow the Exchange to list options on Exchange-Traded Fund Shares. The text of the proposed rule change is available at the Phlx or the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Phlx has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to provide for the trading of options and FLEX options on Exchange-Traded Fund Shares.[3] As noted above, Exchange-Traded Fund Shares are exchange-listed securities representing interests in open-end unit investment trusts or open-end management investment companies (''Funds'') that hold securities based on an index or a portfolio of securities.[4] Exchange-Traded Fund Shares are issued in exchange for an ''in kind'' deposit of a specified portfolio of securities, together with a cash payment, in minimum size aggregations or multiples thereof (''Creation Units''). The size of the applicable Creation Unit size aggregation is set forth in the Fund's prospectus, and varies from one series

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In general, FLEX options provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices. *See* Phlx Rule 1079.

[4] Currently, the Exchange trades unit investment trust securities known as Trust Shares. The Exchange has also just received approval to trade Index Fund Shares which are issued by an open-end management investment company. Trust Shares and Index Fund Shares are listed on the Phlx pursuant to Role 803(i) and 803(l), respectively, and trade like shares of common stock. The Commission notes that not all Trust Shares or Index fund shares trading on the Phlx may meet the standards for options trading approved by this order.

of Exchange-Traded Fund Shares to another, but generally is of substantial size (*e.g.,* value in excess of $450,000 per Creation Unit). A Fund, generally, will issue and sell Exchange-Traded Fund Shares in Creation Unit size through a principal underwriter on a continuous basis at the net asset value per share next determined after an order to purchase Exchange-Traded Fund Shares and the appropriate securities are received. Following issuance, Exchange-Traded Fund Shares are traded on an exchange like other equity securities, and equity trading rules apply. Likewise, redemption of Exchange-Traded Fund Shares is made in Creation Unit size and ''in kind,'' with a portfolio of securities and cash exchange for the Exchange-Traded Fund Shares that have been tendered for redemption

Generally, options on Exchange-Traded Fund Shares are proposed to be traded on the Exchange pursuant to the same rules and procedures that apply to trading in options on equity securities. However, the Exchange is also proposing to list FLEX options on Exchange-Traded Fund Shares and some options will have a unit of trading of 1000 Exchange-Traded Fund Shares. The Exchange will list option contracts covering either 100 or 1000 Exchange-Traded Fund Shares, or both, depending on the price and volatility of the underlying Exchange-Traded Fund Shares and the popularity of the options.[5]

The proposed position, exercise and reporting limits for options on Exchange-Traded Fund Shares would be the same as those established for stock options as set forth in Phlx Rules 1001, 1002 and 1003. The Phlx anticipates that most options on Exchange-Traded Fund Shares initially will qualify for only the lowest position limit. As with other equity options, the position limits will be increased for options if the volume of trading in the Exchange-Traded Fund Shares increases to meet the requirements of a higher limit. As is currently the case for all FLEX options, no position or exercise limits will be applicable to FLEX options overlying Exchange-Traded Fund Shares.

The listing and maintenance standards proposed for options on Exchange-Traded Fund Shares are set forth in proposed Commentary .06 under Phlx Rule 1009 and in proposed Commentary .08 under Phlx Rule 1010, respectively. Pursuant to the proposed initial listing standards, Phlx will only list options on Exchange-Traded Fund Shares that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as national market securities. in addition, the initial listing standards require that either: (1) The Exchange-Traded Fund Shares meet the uniform options listing standards in Commentary .01 to Rule 1009, which include minimum public float, trading volume, and share price of the underlying security in order to list the option,[6] or (2) the Exchange-Traded Fund Shares must be available for creation or redemption each business day in cash or in kind from the Fund at a price related to the net asset value, and the Exchange will require that the investment company shall provide that Exchange-Traded Fund Shares may be created even through some or all of the securities needed to be deposited have not been received by the Fund.[7]

In addition, the initial listing standards require that: (1) Any Exchange-Traded Fund Share with non-U.S. stocks in the underlying index or portfolio that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio; (2) stocks for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index or portfolio; and (3) stocks for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index or portfolio.

The Exchange's proposed maintenance standards provide that if a particular series of Exchange-Traded Fund Shares should cease to trade on an exchange or as national market securities traded through the facilities of a national securities association, there will be no opening transactions in the options on the Exchange-Traded Fund Shares, and all such options will trade on a liquidation-only basis. In addition, the Phlx will consider the suspension of opening transactions in any series of options of the class covering Exchange-Traded Fund Shares if: (1) The options fail to meet the uniform equity option maintenance standards in Commentary.01 to Rule 1010,[8] when the options were listed pursuant to the equity option listing standards of Commentary .01 to Rule 1009; (2) following the initial twelve-month period beginning upon the commencement of trading of the Exchange-Traded Fund Shares on a national securities exchange or as national market securities through the facilities of a national securities association there are fewer than 50 record and/or beneficial holders of Exchange-Traded Fund Shares for 30 or more consecutive trading days; (3) the value of the index or portfolio of securities on which the Exchange-Traded Fund Shares are based is no longer calculated or available; or (4) such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

Options on Exchange-Traded Fund Shares will be physically-settled and will have the American-style exercise feature used on all standardized equity options. The Exchange, however, also proposes to trade FLEX options, which will be available with both the American-style and European-style exercise feature, as well as other FLEX option features.[9]

The proposed margin requirements for options on Exchange-Traded Fund Shares are at the same levels that apply to options generally under Exchange Rule 722, except, with respect to Exchange-Traded Fund Shares based on a broad-based index or portfolio, minimum margin must be deposited

[5] This 1000 share feature was proposed and approved by the American Stock Exchange and The Options Clearing Corporation. Securities Exchange Act Release Nos. 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998) (SR–Amex–96–44) and 40132 (June 25, 1998), 63 FR 36467 (June 25, 1998) (SR–OCC–97–02). In the event the Exchange lists options covering both 100 and 1000 of the same underlying Exchange-Traded Fund Shares, the Exchange will assign separate trading symbols to the options and will issue an Information Circular to all its members advising of the trading symbols. Telephone conservation between John Dayton, Assistant Secretary and Counsel, Phlx, and Heather Traeger, Special Counsel, Division of Market Regulation, Commission, on January 31, 2001.

[6] Specifically, Commentary .01 to Rule 1009 requires the underlying security to have a public float of 7,000,000 shares, 2,000 holders, trading volume of 2,400,000 shares in the preceding 12 months, a share price of $7.50 for the majority of the business days during the three calendar months preceding the date of the selection, and that the issuer of the underlying security is in compliance with the Act.

[7] This assumes that the authorized creation participant has undertaken to deliver the shares as soon as possible and such undertaking has been secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the Fund which underlies the option, as described in the Fund prospectus.

[8] Specifically, Commentary .01 to Rule 1010 provides that an underlying security will not meet the Exchange's requirements for continued listing when, among other things; (1) There are fewer than 6,300,000 publicly-held shares; (2) there are fewer than 1,600 holders; (3) trading volume was less than 1,800,000 shares in the preceding twelve months; or (4) the share price of the underlying security closed below $5 on a majority of the business days during the preceding 6 months.

[9] An American-style option may be exercised at any time prior to its expiration. A European-style option, however, may be exercised only on its expiration date.

and maintained equal to 100% of the current market value of the option plus 15% of the market value of equivalent units of the underlying security value. Exchange-Traded Fund Shares that hold securities based upon a narrow-based index or portfolio must have options margin that equals at least 100% of the current market value of the contract plus 20% of the market value of equivalent units of the underlying security value. In this respect, the margin requirements proposed for options on Exchange-Traded Fund Shares are comparable to margin requirements that currently apply to broad-based and narrow-based index options.

The Exchange believes it has the necessary systems capacity to support the additional series of options that would result from the introduction of options on Exchange-Traded Fund Shares, and it has been advised that the Options Price Reporting Authority (''OPRA'') also will have the capacity to support these additional series due to recent enhancements.

2. Statutory Basis

The Phlx believes that the listing and trading of options on Exchange-Traded Fund Shares should provide investors with another choice of venue to conduct trading in these products. Thus, the Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act [10] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx 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

The Phlx has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change 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 Phlx. All submissions should refer to File No. SR–Phlx–00–107 and should be submitted by March 2, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6(b)(5).[11] Specifically, the Commission believes that providing for the listing and trading of options and FLEX Equity options [12] on Exchange-Traded Fund Shares should give investors a better means to hedge their positions in the underlying Fund Shares. Further, the Commission believes that pricing of the underlying Fund Shares may become more efficient and market makers in these shares, by virtue of enhanced hedging opportunities, may be able to provide deeper and more liquid markets. In sum, the Commission believes that options on Fund Shares likely will engender the same benefits to investors and the market place that exist with respect to options on common stock, thereby serving to promote the public interest and remove impediments to a free and open securities market.[13]

As a general matter, the Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as options on Fund Shares, can commence trading on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. With regard to position and exercise limits, the Commission finds that it is appropriate to adopt the tiered approach used in setting position and exercise limits for standardized stock options. This approach should serve to minimize potential manipulation and market impact concerns. In addition, the Commission believes that the rationale for allowing FLEX Equity options generally to trade without position and exercise limits is equally applicable in the context of FLEX Equity options on Fund Shares.

Accordingly, because options and FLEX Equity options on Fund Shares will be subject to the same regulatory regime as the other options and FLEX Equity options currently traded on the Phlx, the Commission believes that adequate safeguards are in place to ensure the protection of investors in options and FLEX Equity options on Fund Shares.

The Commission also believes that it is appropriate to permit the Phlx to list and trade options, including FLEX Equity options, on Exchange-Traded Fund Shares given that these options must meet specific requirements related to the protection of investors.[14] First, the Exchange's listing and delisting criteria for options on Fund Shares are adequate. With regard to initial listing, the proposal requires that either: (1) The underlying Fund Shares meet the Phlx's uniform options listing standards; or (2) the Exchange-Traded Fund Shares must be available for creation or redemption each business day in cash or in kind from the Fund at a price related to the net asset value, and the Exchange will require that the underlying Fund Shares may be created even though some or all

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78f(b)(5).

[12] The Commission hereby incorporates by reference its findings and conclusions with respect to the appropriateness of FLEX Equity options generally. *See* Securities Exchange Act Release No. 37336 (June 19, 1996), 61 FR 33558 (June 27, 1996).

[13] In approving this rule, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] The Commission notes, and Phlx has verified, that holders of options on Fund Shares who exercise and receive the underlying Fund Shares must receive, like any purchaser of Fund Shares, a product description or prospectus, as appropriate. Telephone conversation between John Dayton, Assistant Secretary and Counsel, Phlx, and Geoffrey Pemble, Attorney, Division of Market Regulation, Commission, on February 2, 2001.

of the securities needed to be deposited have not been received by the Fund.[15] This listing requirement should ensure that there exists sufficient supply of the underlying Fund Shares so that a short call writer, for example, will have the ability to secure delivery of the Fund Shares upon exercise of the option.

The Commission believes the Phlx has adequately addressed potential concerns about the ability to produce Fund Shares upon exercise of the option through the adoption of the listing standards set forth above. In particular, options listed pursuant to the uniform options listing standards will have to meet the options maintenance listing standards that require, among other things, that a minimum number of Fund Shares be outstanding to continue trading the options.[16] The alternative listing criteria, noted above, should also help to ensure that the underlying Fund Shares will be available upon exercise by requiring the Fund to allow market participants to create Fund Shares even though some or all of the necessary securities needed to be deposited are not available.[17] Although there is no absolute assurance that market participants will go ahead and create Fund Shares in the event a short call writer needs to purchase Fund Shares to meet an exercise notice, it is likely that arbitrage opportunities will create an incentive to do so. Further, in the event there are not enough Fund Shares to meet exercise requirements, as with other physically-settled equity options, the Options Clearing Corporation has rules that would apply to such situations.

Second, the Commission believes that the surveillance standard developed by the Phlx for options on Fund Shares is adequate to address the concerns associated with the listing and trading of such securities. Specifically, the Phlx has proposed that: (1) Any Fund Share with non-US stocks in the underlying index or portfolio that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio; (2) stocks for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index or portfolio; and (3) stocks for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index or portfolio.

As a general matter, the Commission believes that comprehensive surveillance agreements provide an important deterrent to manipulation because they facilitate the availability of information needed to fully investigate a potential manipulation if it were to occur. These agreements are especially important in the content of derivative products based on foreign securities because they facilitate the collection of necessary regulatory, surveillance and other information from foreign jurisdictions. In evaluating the current proposal, the Commission believes that requiring comprehensive surveillance agreements to be in place between the Phlx and the primary markets for foreign securities that comprise 50% or more of the weight of the underlying index or portfolio upon which Fund Shares are based, as well as the other conditions discussed above, provides an adequate mechanism for the exchange of surveillance sharing information necessary to detect and deter possible market manipulations. Although the Commission recognizes that up to 50% of the Portfolio's value may not be covered by comprehensive surveillance agreements, the other requirements will ensure that a significant percentage of the portfolio is not made up of securities from uncovered countries. Further, as to the domestically-traded Fund Shares themselves and the domestic stocks in the underlying index or portfolio upon which Fund Shares are based, the Intermarket Surveillance Group Agreement will be applicable to the trading of options on Fund Shares.

Finally, the Commission believes that it is appropriate to require minimum margin of 100% of the current market value of the option plus 15% of the market value of the underlying security value (''broad-based margin'') for options on Fund Shares based on a broad-based index or portfolio and for options on Fund Shares which have been approved to date. Moreover, the Commission believes that requiring minimum margin of 100% of the current market value of the option plus 20% of the market value of the underlying security value (''narrow-based margin'') for options on Fund Shares based on a narrow-based index or portfolio is appropriate. The Commission notes that these margin requirements for options on Exchange-Traded Fund Shares are comparable to margin requirements that currently apply to broad-based and narrow-based index options.

The Commission finds good cause for approving the proposed rule change (SR–Phlx–00–107), as amended, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register.** The Commission notes that the proposed rule change is based on Amex Rules 915 and 916, which the Commission approved previously.[18] The Commission also observes that the proposed rule change concerns issues that previously have been the subject of a full comment period pursuant to section 19(b) of the Act.[19] The Commission does not believe that the proposed rule change raises novel regulatory issues that were not addressed in the previous filings. Accordingly, the Commission finds that there is good cause, consistent with section 6(b)(5) of the Act, to approve the amended proposal on an accelerated basis.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[20] that the proposed rule change (SR–Phlx–00–107), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

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[15] This assumes that the authorized creation participant has undertaken to deliver the shares as soon as possible and such undertaking has been secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the Fund which underlies the option, as described in the Fund prospectus.

[16] *See* supra note 6.

[17] *See* supra note 16.

[18] *See* Securities Exchange Act Release No. 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998) (SR–Amex–96–44).

[19] 15 U.S.C. 78s(b).

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43927; File No. SR–PHLX–01–07]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to an Interpretation of Phlx Rule 237 Governing the eVWAP Morning Session

February 5, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 11, 2001, the Philadelphia Stock Exchange, Inc. (''Exchange'' or ''Phlx'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

in Items I, II, and III below, which Items have been prepared by Phlx. Phlx filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(1) and (5) thereunder.[4] Pursuant to Rule 19b–4(f)(1) and (5), Phlx has designated this proposal as one constituting an interpretation of the meaning and administration of existing Phlx Rule 237, and as one effecting a change in an existing order-entry or trading system of the Phlx that does not: (1) Significantly affect the protection of investors or the public interest, (2) impose any significant burden on competition, or (3) significantly have the effect of limiting the access to or availability of the system. As such, the proposed rule change is immediately effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to Rule 19b–4 of the Act, Phlx is providing an interpretation to Phlx Rule 237, eVWAP Morning Session,[5] to include New York Stock Exchange, Inc. (''NYSE'') Rule 127 transactions in the eVWAP calculation. NYSE Rule 127 transactions are block trades executed on the NYSE floor outside of the present quote and are denoted as ''J trades'' by the Securities Industry Automation Corporation.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Phlx 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

The purpose of the proposed rule change is to intepret Phlx Rule 237 to include NYSE Rule 127 trades in the eVWAP price calculation. The eVWAP is a pre-opening order matching session for the electronic execution of large-sized stock orders at a standardized volume weighted average price (''eVWAP Price'').

In accordance with Phlx Rule 237, the eVWAP Price is derived from all regular way trades (including sold sales and late sales) reported by the appropriate reporting authority from the opening of the regular trading session and printed prior to 4:15 p.m. EST. The calculation excludes NYSE Rule 127 trades that are block executed on the NYSE floor outside of the present quote. A number of eVWAP participants have requested of UTTC that these trades be included in the eVWAP calculation to the extent that such trades are regular way trades and are reported by the appropriate reporting authority before 4:15 p.m. EST. Upon review, the Exchange has interpreted Phlx Rule 237 to include these in the eVWAP Price calculation.[6] The Exchange included these trades in the calculation methodology beginning on Tuesday, January 16, 2001. UTTC endeavored to notify all enrolled eVWAP participants of this change by letter dated January 11, 2001.

The proposed rule change is consistent with Section 6(b) of the Act in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices and protect investors and the public interest by including NYSE Rule 127 trades in the eVWAP Price calculation.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Phlx does not believe that the proposed rule change will result in any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[7] of the Act and Rule 19b–4(f)(1) and (5)[8] thereunder in that it constitutes an interpretation of the meaning and administration of Phlx Rule 237, an existing rule governing operation of eVWAP, and a change in an existing order-entry or trading system of Phlx that does not: (1) Significantly affect the protection of investors of the public interest, (2) impose any significant burden on competition, or (3) significantly have the effect of limiting the access to or availability of the system. At any time within 60 days of the filing of such 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule 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 Phlx. All submissions should refer to the number in the caption above and should be submitted by March 2, 2001.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(1) and (5).

[5] eVWAP was developed by Universal Trading Technologies Corporation (''UTTC''), and was approved by the Commission to operate as a facility of the Exchange. *See* Securities Exchange Act Release No. 41210 (March 24, 1999) (SR–Phlx–96–14). The Commission approved the facility to operate as pilot program until November 30, 2001. *See* Securities Exchange Act Release No. 43477 (October 30, 2000) (SR–Phlx–00–84).

[6] In a telephone conversation on January 29, 2001 between John Dayton, Esq., Exchange, and Heidi Pilpel, Special Counsel, Commission, the Exchange represented that the proposed interpretation will conform the value weighted average price calculation methodology used by UTTC to the value weighted average price calculation methodology used by other similar services.

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(1) and (5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margared H. McFarland,

Deputy Secretary.

[FR Doc. 01–3362 Filed 2–8–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9K67]

Commonwealth of Massachusetts (And Contiguous Counties in Connecticut, New York and Vermont)

Berkshire County and the contiguous counties of Franklin, Hampden, and Hampshire in the Commonwealth of Massachusetts; Litchfield in Connecticut; Columbia and Rensselaer in New York; and Bennington in Vermont constitute an economic injury disaster loan area as a result of a fire that occurred on January 17, 2001 in the Town of Great Barrington. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on November 2, 2001 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd, South 3rd Floor, Niagara Falls, NY 14303.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent. The numbers assigned for economic injury for this disaster are 9K6700 for Massachusetts; 9K6800 for Connecticut; 9K6900 for New York; and 9K7000 for Vermont.

(Catalog of Federal Domestic Assistance Program No. 59002)

Date: February 2, 2001.

Kristine Marcy,

Acting Administrator.

[FR Doc. 01–3403 Filed 2–8–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3317; Amendment #3]

State of Texas

In accordance with a notice received from the Federal Emergency Management Agency, dated January 19, 2001, the above-numbered Declaration is hereby amended to include Lamar County as a disaster area due to damages caused by a severe winter ice storm beginning on December 12, 2000 and continuing through January 15, 2001.

Any counties contiguous to the above named primary county and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is March 9, 2001 and for economic injury the deadline is October 9, 2001.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 30, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–3401 Filed 2–8–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3317; Amendment #4]

State of Texas

In accordance with a notice received from the Federal Emergency Management Agency, dated January 30, 2001, the above-numbered Declaration is hereby amended to include Titus County as a disaster area due to damages caused by a severe winter ice storm beginning on December 12, 2000 and continuing through January 15, 2001.

In addition, applications for economic injury loans from small businesses located in Camp County, Texas may be filed until the specified date at the previously designated location.

Any counties contiguous to the above named primary county and not listed herein have been previously declared.

All other information remains the same, *i.e.,* the deadline for filing applications for physical damage is March 9, 2001 and for economic injury the deadline is October 9, 2001.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 1, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–3402 Filed 2–8–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region IV District Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration, Georgia District Office Advisory Council, will hold a public meeting on Friday, March 9, 2001 at 9 a.m., at the Columbus Hilton, 800 Front Avenue, Columbus, Georgia 31901; to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information write or call Mr. Charles E. Anderson, District Director, U.S. Small Business Administration, 233 Peachtree Street, NE, Suite 1900, Atlanta, Georgia 30303; telephone (404) 331–0266.

Nancyellen Gentile,

Committee Management Officer.

[FR Doc. 01–3404 Filed 2–8–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–8662]

National Preparedness for Response Exercise Program (PREP)

AGENCY: Coast Guard, DOT.

ACTION: Request for comments on PREP triennial exercise schedule for 2001, 2002, and 2003.

SUMMARY: The Coast Guard, the Environmental Protection Agency (EPA), the Research and Special Programs Administration (RSPA) and the Minerals Management Service (MMS), in concert with the states, the oil industry and concerned citizens, developed the Preparedness for Response Exercise Program (PREP). This notice announces the PREP triennial cycle, 2001–2003, and requests comments from the public and maximum industry and government participation in the listed exercises.

DATES: Comments and related material must reach the Docket Management Facility on or before April 10, 2001.

ADDRESSES: To make sure your comments and related material are not entered twice in the docket, please submit them by only one of the following methods:

(1) By mail to the Docket Management Facility, (USCG–2001–8662), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

[9] 17 CFR 200.30–3(a)(12).

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and documents, as indicated in this notice, will become part of this docket and will be available for inspection or copying at room PL–401 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. You may electronically access the public docket for this notice on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this notice and general information regarding the PREP program and the schedule, contact Mr. Robert Pond, Office of Response, Plans and Preparedness Division (G–MOR–2), U.S. Coast Guard Headquarters, 2100 2nd St. SW., Washington, DC 20593–0001, telephone 202–267–6603, fax 202–267–4065 or e-mail *rpond@comdt.uscg.mil.* For questions on viewing, or submitting material to the docket, contact Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION: The PREP Area exercise schedule and exercise design manuals are available on the Internet at *http://www.uscg.mil/hq/g-m/gmhome.htm* (see index, then oil response). To obtain a hard copy of the exercise design manual, contact Ms. Melanie Barber at the Research and Special Programs Administration, Office of Pipeline Safety, at 202–366–4560. The 1994 PREP Guidelines can be found on the following web site: *http://www.uscg.mil/hq/g-m/nmc/response/#PREP.* Hard copies of the PREP Guidelines are available at no cost by writing or faxing the TASC Warehouse, 3341 Q 75th Avenue, Landover, MD 20785, fax: 301–386–5394. The stock number of the manual is USCG–X0191. Please indicate the quantity when ordering. Quantities are limited to 10 per order.

On August 29, 2000, a PREP workshop was held at the Department of Transportation Nassif Building. The workshop was used as a public forum to discuss the vitality of the PREP program. Participants, as well as all concerned individuals, were encouraged to submit comments in writing to the docket. The National Scheduling Coordinating Committee (NSCC) is in the process of developing responses to all comments submitted. These responses will be published in a future **Federal Register** notice.

Request for Comments

We encourage you to participate by submitting comments and related material. If you do so, please include your name and address, identify the docket number [USCG–2001–8662], indicate the specific section of the document to which each comment applies, and give the reason for each comment. You may submit your comments and materials by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the facility, please enclose a stamped, self addressed postcard or envelope. We will consider all comments and material received during the comment period.

Background and Purpose

The Coast Guard, EPA, RSPA, and MMS developed the National Preparedness for Response Exercise Program (PREP) to provide guidelines for compliance with the pollution response exercise requirements (33 U.S.C. 1321(j)). The guiding principles for PREP distinguish between internal and external exercises. Internal exercises are conducted within the plan holder's organization. External exercises extend beyond the plan holder's organization to involve other members of the response community. External exercises are separated into two categories: (1) Area exercises, designed to evaluate the entire response mechanism in a given area, and (2) Government-initiated unannounced exercises, to ensure adequate pollution response preparedness of an individual plan holder.

Since 1994, the USCG, EPA, RSPA, and MMS have published a triennial schedule of Area exercises. In short, the Area exercises involve the entire response community (Federal, State, local, and industry participants) and therefore, require more extensive planning than other oil spill response exercises. The PREP guidelines describe all of these exercises in more detail. This notice announces the next triennial schedule of Area exercises.

Not all industry leads have been identified at this time. Industry plan holders are encouraged to take advantage of this opportunity to exercise with the entire response community and to coordinate their regularly scheduled spill management team and equipment deployment exercises with the Area Committees.

Companies interested in participating in an Area exercise may call either the Coast Guard office or the EPA On-Scene Coordinator (OSC) where the exercise is scheduled. Alternatively, the companies interested in participating in an exercise, where the Coast Guard is the OSC, may call Mr. Pond at 202–267–6603, and he will facilitate scheduling.

The following is the PREP schedule for calendar Years 2001, 2002, and 2003.

PREP SCHEDULE—GOVERNMENT-LED AREA EXERCISES

Area	Agency	Plan holder	Date/qtr [1]
Calendar Year 2001			
Saulte St. Marie (MSO Saulte St. Marie)	CG		30 Apr–02 May.
NY, NY (Act NY)	CG		04 Jun–08 Jun.
SW LA/SE TX (MSO Morgan City, MSO Port Arthur)	CG	SONS Phase I	Sep.
EPA Region I	EPA		To Be Determined.
Chicago Area (MSO Chicago)	CG		24 Sep–28 Sep.
Maryland Coastal (Act Baltimore)	CG		10 Dec–14 Dec.
Calendar Year 2002			
South FL (MSO Miami)	CG		25 Feb–01 Mar.
SW LA/SE TX (MSO Morgan City, MSO Port Arthur)	CG	SONS Phase II	Spring 2002.
Boston (MSO Boston)	CG		17 Jun–21 Jun.
Hawaii/Samoa (MSO Honolulu)	CG		22 Jul–26 Jul.
Central CA Coast (MSO San Francisco)	CG		16 Sep–20 Sep.

PREP SCHEDULE—GOVERNMENT-LED AREA EXERCISES—Continued

Area	Agency	Plan holder	Date/qtr [1]
EPA Region VII	EPA		To Be Determined.
Calendar Year 2003			
Marianna Islands (MSO Guam)	CG		1
EPA Region II	EPA		1
Philadelphia (MSO Philadelphia)	CG		2
SE Alaska (MSO Juneau)	CG		3
Savannah (MSO Savannah)	CG		4
Florida Panhandle (MSO Mobile)	CG		4

PREP SCHEDULE—INDUSTRY-LED EXERCISES

Area	Plan holder [2]	Date [1]
Calendar Year 2001		
Guam (MSO Guam)	v	1
Charleston (MSO Charleston)	f (mtr)	1
Southern Coastal NC (MSO Wilmington)	v	1
EPA Region VII	f (nonmtr)	2
Long Island Sound (MSO Long Island Sound)	f	2
EPA Region V	f	2
San Francisco Bay (MSO San Francisco)	f (mtr)	3
Duluth-Superior (MSO Duluth)	f	3
South TX Coastal Zone (MSO Corpus Christi)	v	3
Prince William Sound (MSO Valdez)	p	3
LA/LB (MSO LA/LB)	v	4
San Diego (MSO San Diego)	f	4
Calendar Year 2002		
Tampa (MSO Tampa)	v	1
Northwest (MSO Puget Sound)	v	1
South LA/LB (MSO LA/LB)	f (mtr)	1
EPA Oceania	f (nonmtr)	1
EPA Region II	p	2
Eastern Wisconsin (MSO Milwaukee)	v	2
Eastern Great Lakes (MSO Buffalo)	f (mtr)	3
Maine/New Hampshire (MSO Portland)	v	3
Providence (MSO Providence)	v	3
EPA Region VI	f (nonmtr)	4
Virginia Coastal (MSO Hampton Roads)	f (mtr)	4
Houston/Galveston (MSO Houston/Galveston)	p	4
Alabama/Mississippi (MSO Mobile)	f	4
Calendar Year 2003		
EPA Region IX	p	1
North Coast Area (MSO San Francisco)	f (mtr)	1
New Orleans (MSO New Orleans)	p	2
W Lake Erie (MSO Toledo)	f (nonmtr)	2
EPA Region IV	f (nonmtr)	2
Northwest Area (MSO Portland)	v	3
Cleveland (MSO Cleveland)	f (mtr)	3
Detroit (MSO Detroit)	v	3
Caribbean Area (MSO San Juan)	v	4
EPA Region III	f (nonmtr)	4
Jacksonville (MSO Jacksonville)	v	4

[1] Quarters: 1 (Jan–Mar); 2 (Apr–Jun); 3 (Jul–Sep); 4 (Oct–Dec). Note also exercise areas and dates are fixed. For 2001 and 2002 Government led area exercises are fixed, the actual quarter in which a listed area will be exercised is subject to projections in each of those areas as the exercise year approaches.

[2] Industry: v-Vessel; f (mtr)-marine transportation-related facility; f (nonmtr)-marine non-transportation related facility; p-pipeline.

Dated: January 31, 2001.

Howard L. Hime,

Acting Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–3372 Filed 2–8–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2001–8872]

Reciprocal Acceptance of Repair Design Approvals Between the Federal Aviation Administration and Transport Canada Civil Aviation

AGENCY: Federal Aviation Administration, (DOT).

ACTION: Notice of policy, request for comments.

SUMMARY: This notice announces an FAA general statement of policy applicable to the acceptability of repair design data approved by Transport Canada Civil Aviation (TCCA) in accordance with the provisions of a Memorandum of Understanding (MOU) agreed to by TCCA and the FAA on May 6, 1998. The MOU was signed pursuant to the Schedule of Implementation Procedures of the August 31, 1984 U.S./Canada Bilateral Airworthiness Agreement. This document advises the public that certain Canadian repair design approvals for U.S. and Canadian products are considered to be technical data approved by the Administrator. Such data therefore may be used for the purpose of performing a repair on a U.S.-registered aircraft or on an aeronautical product intended for installation on a U.S.-registered aircraft.

DATES: Comments must be received on or before March 12, 2001.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000– at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing comments to this notice of policy in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Victor Powell, Certification Procedure Branch, AIR–110, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267–9580, fax (202) 267–5340, e-mail victor.powell@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit written comments, data, views, or arguments regarding this policy. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above. All comments received and a report summarizing any substantive public contact with FAA personnel on this policy will be filed in the docket. The docket is available for public inspection both before and after the closing date for receiving comments. The Administrator will consider comments made on this policy on or before the closing date for comments, and the policy may be changed in light of the comments received.

The FAA will acknowledge receipt of comments if commenters include a self-addressed, stamped postcard with the comments. The postcards should be marked ''Comments to Docket No. FAA–2000– .'' When the comments are received by the FAA, the postcards will be dated, time stamped, and returned to the commenters.

Availability of Documents

You can get an electronic copy of the current bilateral agreement between the United States and Canada using the Internet through FAA's web page at http://www.faa.gov/avr/air/air4/Baalst.htm.

You can get a copy of the May 6, 1998 MOU for the Design Approval of Aeronautical Product Repairs by submitting a request to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

On May 6, 1998 representatives of the FAA and TCCA signed an MOU which set forth procedures for implementing the ''design approval of repairs'' provisions of the BAA between the United States and Canada signed on August 31, 1984. The MOU was signed pursuant to Chapter 4, Maintenance Alteration or Modification of Aeronautical Products, and Chapter 7, Special Arrangements of the BAA Schedule of Implementation Procedures. The FAA and TCCA signed the MOU for the purpose of avoiding duplication of design approvals by giving maximum permissible credit for repair design approvals made by each authority.

In the MOU the FAA and TCCA agree to cooperate in accepting each other's design approval of repairs. The authorities also agree that certain data generated in the design approval of repairs and found to comply with the regulations of both authorities is approved by both, without any other required actions. The MOU continues to remain in force under the provisions of the Bilateral Aviation Safety Agreement signed between the United States and Canada on June 12, 2000.

Statement of Policy

U.S. Acceptance of Canadian Repair Design Data

As specified in this statement of policy, certain Canadian repair design approvals are considered to be technical data approved by the Administrator for the purpose of performing a repair on a U.S.-registered aircraft or on an aeronautical product intended for installation on a U.S.-registered aircraft.

For U.S. State of Design products, repair design approvals issued directly by TCCA are considered technical data approved by the Administrator. Repair design approvals issued solely by a TCCA delegate for U.S. State of Design products are not considered technical data approved by the Administrator. TCCA delegate approvals for U.S. State of Design products must have the specific approval of the authority or direct FAA or FAA designee approval before being considered to be technical data approved by the Administrator.

Repair design approvals issued by either the TCCA or an appropriately authorized TCCA delegate for Canadian State of Design products are considered to be technical data approved by the Administrator. TCCA or TCCA delegate repair design approvals are not considered technical data approved by the Administrator for products where the United States or Canada is not the State of Design (a ''third country'' product). Direct FAA or FAA designee review and approval is required for repair design data for ''third country'' products.

For repairs to engines and propellers the State of Design of the engine or propeller, not the State of Design of the aircraft that the engine or propeller is installed on, determines whether Canadian repair design data is

considered approved. For components, the State of Design for the type certificated product (*i.e.* the aircraft, aircraft engine, or propeller) on which the component is approved (or the State of Design for the applicable Supplemental Type Certificate) governs the procedures used to obtain approval of the repair design data, not the state of design of the repaired (non-TC'd) product or component itself.

Data approved by TCCA delegates for minor repairs is acceptable to the FAA for accomplishment of minor repairs on any U.S.-registered aircraft or any other aeronautical product intended for installation on a U.S.-registered aircraft.

This policy does not limit the FAA's right to review any data approved by TCCA or a TCCA delegate that is used to repair a U.S.-registered aircraft or an aeronautical product intended for installation on a U.S. registered aircraft.

Limitations

This statement of policy applies only to the acceptance of repair design data. It does not address manufacturing/production, approval for return to service, use of FAA Form 337, installation acceptability, or Export Airworthiness approvals. It does not apply to repair design data developed to perform: repairs on aeronautical products for which the State of Design is a country other than Canada or the United States; repairs approved in accordance with FAA ''field approval'' procedures; and repairs performed under SFAR 36 authority for aeronautical products where the United States is not the State of Design.

Elizabeth Erickson,

Director, Aircraft Certification Service.

[FR Doc. 01–3397 Filed 2–8–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration (RSPA)

[Docket No. RSPA–00–7666; Notice 1 and RSPA–00–7408; Notice 1]

Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Natural Gas Pipelines) and Communications (Natural Gas and Hazardous Liquid Pipelines)

AGENCY: Office of Pipeline Safety, Research and Special Programs Administration, DOT.

ACTION: Notice of public meeting and request for comments; correction.

SUMMARY: RSPA published a document in the **Federal Register** on January 4, 2001, (66 FR 848) regarding a public meeting to be held February 12–14, 2001 on Pipeline Integrity Management in High Consequence Areas (Natural Gas Pipelines) and Communications (Natural Gas and Hazardous Liquid Pipelines). The document contained errors in reference to the ending times of the meeting on February 12, 2001 and on February 13, 2001.

FOR FURTHER INFORMATION CONTACT: Elizabeth Callsen, OPS, (202) 366–4572.

Correction

In the **Federal Register** issue of January 4, 2001, 66 FR 848, in the second column, correct the second full paragraph to read: **DATES:** The public meeting will be on February 12, 2001, from 9 a.m. to 5 p.m., February 13, 2001, from 9 a.m. to 5 p.m., and February 14, 2001, from 9 a.m. to 12 noon, at the Crystal City Marriott.

Issued in Washington, DC on February 5, 2001.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 01–3398 Filed 2–8–01; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33997]

Texas Central Business Lines Corporation—Operation Exemption—MidTexas International Center

Texas Central Business Lines Corporation (TCB) has filed a verified notice of exemption under 49 CFR 1150.31 to provide nonexclusive switching service over approximately 5.0 miles of yard and switching track located entirely within the MidTexas International Center, Inc. (Inland Port).[1] The track generally is located north of State Highway 287 and east of U.S. Highway 67 in Midlothian, TX.

The transaction is expected to be consummated on or after March 1, 2001.[2]

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

[1] TCB and Inland Port have negotiated an agreement for TCB's services, the initial term of which is 10 years.

[2] TCB simultaneously filed a petition to dismiss the verified notice of exemption. The Board will address the jurisdictional issue raised by the petition to dismiss in a subsequent decision.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33997, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on David D. Watson, P.O. Box 665, Waxahachie, TX 75168.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: February 5, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–3392 Filed 2–8–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 911]

Expiration of the Registration Period for Possession of the USAS–12, Striker–12, and Streetsweeper Shotguns (ATF Ruling 2001–1)

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

ACTION: General notice.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is issuing this notice to announce the availability of ATF Ruling 2001–1. This ruling advises that the registration period for people who are currently in possession of the USAS–12, Striker–12, and Steetsweeper shotguns expires on May 1, 2001.

ADDRESSES: Advance copies of ATF Ruling 2001–1 are available at no cost upon request from the National Firearms Act Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. The ruling may also be viewed at ATF's web site at: http://www.atf.treas.gov.

FOR FURTHER INFORMATION CONTACT: Cheryl Fisher, National Firearms Act Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8330).

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Alcohol, Tobacco and Firearms (ATF) is announcing the issuance of ATF Ruling 2001–1. This

ruling, which will be published in a future issue of the ''Alcohol, Tobacco and Firearms Quarterly Bulletin,'' advises that the registration period for people who are currently in possession of the USAS–12, Striker–12, and Streetsweeper shotguns will expire on May 1, 2001. The full text of the ruling follows:

ATF Ruling 2001–1

Pursuant to ATF Rulings 94–1 (ATF Q.B. 1994–1, 22) and 94–2 (ATF Q.B. 1994–1, 24), the Bureau of Alcohol, Tobacco and Firearms (ATF) classified the USAS–12, Striker 12, and Streetsweeper shotguns as destructive devices under the National Firearms Act (NFA), 26 U.S.C. Chapter 53. The NFA requires that certain ''firearms'' be registered and imposes taxes on their making and transfer. The term ''firearm'' is defined in section 5845 to include ''destructive devices.'' The term ''destructive device'' is defined in section 5845(f)(2) as follows:

> [T]he term ''destructive device'' means * * * (2) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes; * * *.

The USAS–12, Striker 12, and Streetsweeper shotguns were classified as destructive devices pursuant to section 5845(f) because they are shotguns with a bore of more than one-half inch in diameter which are not generally recognized as particularly suitable for sporting purposes.

Pursuant to 26 U.S.C. 7805(b), ATF. Ruls. 94–1 and 94–2 were issued prospectively with respect to the making, transfer, and special (occupational) taxes imposed by the NFA. Thus, although the classification of the three shotguns as NFA weapons was retroactive, the prospective application of the tax provisions allowed registration without payment of tax. ATF has contacted all purchasers of record of the shotguns to advise them of the classification of the weapons as destructive devices and that the weapons must be registered. ATF has registered approximately 8,200 of these weapons to date.

Held, the registration period for the USAS–12, Striker–12, and Streetsweeper shotguns will close on May 1, 2001. No further registrations will be accepted after that date. Persons in possession of unregistered NFA firearms are subject to all applicable penalties under 26 U.S.C. Chapter 53.

Approved: February 2, 2001.

Bradley A. Buckles,

Director.

[FR Doc. 01–3391 Filed 2–8–01; 8:45 am]

BILLING CODE 4810–31–P

Corrections

Federal Register

Vol. 66, No. 28

Friday, February 9, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Revision of an Information Collection: RI 38–115

Correction

In notice document 01–1963 appearing on page 7520 in the issue of Tuesday, January 23, 2001, make the following correction:

On page 7520, in the second column, under the heading **DATES**, the third line ''February 22, 2001'' should read ''March 26, 2001''.

[FR Doc. C1–1963 Filed 2–8–01; 8:45 am]

BILLING CODE 1505–01–D

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: Form RI 95–4

Correction

In notice document 01–1964 appearing on page 7519 in the issue of Tuesday, January 23, 2001, make the following correction:

On page 7519, in the first column, under the heading **DATES**, in the second line ''February 22, 2001'' should read ''March 26, 2001''.

[FR Doc. C1–1964 Filed 2–8–01; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43831; File No. SR–NASD–00–72]

Self–Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Nasdaq's Transaction Credit Pilot Program

January 10, 2001.

Correction

In notice document 01–1410, beginning on page 4882, in the issue of Thursday, January 18, 2001, make the following correction:

On page 4882, in the third column, the docket number is corrected to read as set forth above.

[FR Doc. C1–1410 Filed 2–8–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
February 9, 2001

Part II

Department of Transportation

Saint Lawrence Seaway Development Corporation

33 CFR Parts 401 and 402

Seaway Regulations and Rules; Tariff of Tolls; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Parts 401 and 402

[Docket No. SLSDC 2001–8785]

RIN 2135–AA12

Seaway Regulations and Rules; Tariff of Tolls

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls in their respective jurisdictions. The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC. The SLSDC will be revising its regulations to reflect the fees and charges that will be charged by the SLSMC in Canada starting in the 2001 navigation season and related editorial, format, and substantive changes, the latter of which will be effective only in Canada. The SLSDC also proposes an amendment to increase the toll for pleasure vessels to be charged by the SLSDC for transit through the U.S. locks, which the SLSMC is also doing for Canadian locks. Through agreement with the SLSMC, the SLSDC also proposes an amendment to its ''Preclearance of vessels'', regulation clarifying that certain non-commercial vessels would be considered pleasure vessels for the purposes of tolls and a conforming amendment its ''Payment of tolls'' provision of the joint Seaway Regulations and Rules requiring that pleasure vessel tolls be paid ''in U.S. funds or the equivalent in Canadian funds'' at each lock, instead of at par. Also through agreement with the SLSMC, the SLSDC proposes an amendment to clarify the definition for ''flashpoint''. Since only these four proposed amendments concerning the SLSDC toll for pleasure vessels and the definition of ''flashpoint'' would be of applicability in the United States, comments are invited on only these. (See **SUPPLEMENTARY INFORMATION.**)

DATES: Any party wishing to present views on the proposed amendments may file comments with the Corporation on or before March 12, 2001.

ADDRESSES: Signed, written comments should refer to the docket number appearing at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, S.W., Washington, D.C. 20590–0001. Written comments may also be submitted electronically by using the submission form at http://dmses.dot.gov/submit/BlankDSS.asp. All comments received will be available for examination 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: Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 366–6823.

SUPPLEMENTARY INFORMATION: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls in their respective jurisdictions. (The Tariff is called the Schedule of Fees and Charges in Canada.) The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC. The SLSDC will be amending part 402 to reflect the fees and charges that will be charged by the SLSMC in Canada starting in the 2001 navigation season and related editorial, format, and substantive changes. (Because of the number of edits and format changes, the entire text of part 402 is set out as an amendment below.) With the exception of the proposed change for pleasure vessel tolls, the substantive changes affect the tolls for commercial vessels and will be applicable only in Canada as the collection of the U.S. portion of tolls for commercial vessels is waived by law (33 U.S.C. 988a(a)). The SLSDC also proposes an amendment to increase the toll for pleasure vessels to be charged by the SLSDC for transit through the U.S. locks, which the SLSMC is also doing for Canadian locks. Through agreement with the SLSMC, the SLSDC also proposes an amendment to § 401.22, ''Preclearance of vessels'', clarifying that certain non-commercial vessels would be considered pleasure vessels for the purposes of tolls and a conforming amendment to § 401.75, ''Payment of tolls'', of the joint Seaway Regulations and Rules requiring that pleasure vessel tolls be paid ''in U.S. funds or the equivalent in Canadian funds'' at each lock, instead of at par. Also through agreement with the SLSMC, the SLSDC proposes an amendment to § 401.2 to clarify the definition for ''flashpoint''. Since only these four proposed amendments concerning the SLSDC toll for pleasure vessels would be of applicability in the United States, comments are invited on only these. The specific change proposed is to amend § 402.8, ''Schedule of Tolls'', to increase the toll for pleasure vessels for transit through a U.S. lock from $10 to $20 in U.S. funds or $30 in Canadian funds, the current equivalent, instead of at par. Since approximately 97% of pleasure craft tolls are collected in Canadian funds, the SLSDC has been losing a substantial amount of revenue due to the high exchange rate. The SLSDC believes that discounting the Canadian funds at the locks on an *ad hoc* basis would not be practicable. Increasing the tolls as proposed at the SLSDC's two locks would offset the loss of revenue due to the exchange and be beneficial to SLSDC future funding requirements. Moreover, lock operations costs for pleasure vessel transits for 1999 has been estimated as $160,000, resulting in an approximate subsidy of $127,000 for these transits. The last toll increase for these vessels was in 1991 when the rate was raised from $5 to $10. The proposed increase for an estimated 2,500 pleasure vessel transits would result in a toll revenue increase of approximately $97,000 in U.S. funds, lowering the effective subsidy of these transits to approximately $63,000. The SLSDC also proposes an amendment to § 401.22, ''Preclearance of vessels'', by adding a new paragraph (c) clarifying that non-commercial vessels with a tonnage displacement of less than 317.5 tons would not be eligible to apply for preclearance status, but would be considered pleasure craft. The reason for this amendment is that associated costs for these vessels incurred by the SLSMC under their preclearance process is disproportionately larger than the amount of tolls these vessels would pay if precleared. Finally, the SLSDC proposes a conforming amendment to paragraph (b) of § 401.75, ''Payment of tolls'', of the joint Seaway Regulations and Rules, which concerns payment of pleasure vessel tolls. The provision that tolls for pleasure craft are payable ''in Canadian or American funds'' would be changed to say that these tolls would be payable at each lock ''in U.S. funds or the equivalent in Canadian funds''. Also through agreement with the SLSMC, the SLSDC proposes an amendment to § 401.2 to clarify the definition for ''flashpoint'', stating that it means the

''lowest temperature of a flammable liquid at which its vapor forms an ignitable mixture with air'' as determined by the closed-cup method.

Regulatory Evaluation

This proposed regulation involves a foreign affairs function of the United States, and therefore, Executive Order 12866 does not apply. This proposed regulation has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and the proposed regulation is not considered significant under those procedures and its economic impact is expected to be so minimal that a full economic evaluation is not warranted.

Regulatory Flexibility Act Determination

The Saint Lawrence Seaway Development Corporation certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls primarily relates to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This proposed regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major federal action significantly affecting the quality of human environment.

Federalism

The Corporation has analyzed this rule under the principles and criteria in Executive Order 13132, Dated August 4, 1999, and has determined that it will not have a substantial, direct effect on the States or on the distribution of power and responsibilities among various levels of government. The rule will not limit the policymaking discretion of the States. Nothing in it would directly preempt any State law or regulation. Because the rule will have no significant effect on State or local governments, no consultations with those governments on this rule were necessary.

Paperwork Reduction Act

This proposal has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects

33 CFR Part 401

Hazardous materials transportation, Navigation (water), Radio reporting and record keeping requirements, Vessels, Waterways.

33 CFR Part 402

Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation proposes to amend part 401—Seaway Regulations and Rules and part 402—Tariff of Tolls (33 CFR part 402) as follows:

PART 401—[AMENDED]

1. The authority citation for part 401 continues to read as follows:

Authority: 33 U.S.C. 983(a) and 984(a)(4), as amended; 49 CFR 1.52, unless otherwise noted.

2. Section 401.2 would be amended by revising paragraph (b) to read as follows:

§ 401.2 Interpretation.

* * * * *

(b) *Flashpoint* means the lowest temperature of a flammable liquid at which its vapor forms an ignitable mixture with air as determined by the closed-cup method.

* * * * *

3. Section 401.22 would be amended by adding a new paragraph (c) to read as follows:

§ 401.22 Preclearance of vessels.

* * * * *

(c) A non-commercial vessel with a tonnage displacement of less than 317.5 tons cannot apply for preclearance status and must transit as a pleasure craft.

* * * * *

§ 401.75 [Amended]

4. Section 401.75 would be amended by removing the words ''Canadian or American funds'' in paragraph (b) and adding in their place the words ''U.S. funds or the equivalent in Canadian funds''.

5. Part 402—Tariff of Tolls would be revised to read as follows:

PART 402—TARIFF OF TOLLS

Sec.
402.1 Purpose.
402.2 Title.
402.3 Interpretation.
402.4 Tolls.
402.5 Description and weight of cargo.
402.6 Post-clearance date operational surcharges.
402.7 Coming into force.
402.8 Schedule of tolls.
402.9 Operational surcharges—no postponements.
402.10 Operational surcharges after postponements.

Authority: 33 U.S.C. 983(a), 984(a)(4), and 988, as amended; 49 CFR 1.52.

§ 402.1 Purpose.

This regulation prescribes the charges to be assessed for the full or partial transit of the St. Lawrence Seaway between Montreal, Quebec, and Lake Erie.

§ 402.2 Title.

This tariff may be cited as the St. Lawrence Seaway Tariff of Tolls (Schedule of Tolls in Canada).

§ 402.3 Interpretation.

In this tariff,

(a) *Bulk cargo* means cargo consisting of goods, loose or in mass, that generally must be shoveled, pumped, blown, scooped or forked in the handling and includes:

(1) Cement, loose or in sacks;

(2) Coke and petroleum coke, loose or in sacks;

(3) Domestic cargo;

(4) Liquids carried in vessels' tanks;

(5) Ores and minerals (crude, screened, sized or concentrated, but not otherwise processed) loose or in sacks, including alumina, bauxite, coal, gravel, phosphate rock, sand, stone and sulphur;

(6) Pig iron and scrap metals;

(7) Lumber, pulpwood, poles and logs, loose or bundled;

(8) Raw sugar, flour, loose or in sacks;

(9) Wood pulp, loose or in bales; and

(10) Material for recycling, scrap material, refuse and waste.

(b) *Cargo* means all goods aboard a vessel whether carried as revenue or non-revenue freight or carried for the vessel owner, but does not include:

(1) empty containers and the tare weight of loaded containers;

(2) ships' fuel, ballast or stores;

(3) the personal effects of crew or passengers; or

(4) in transit cargo that is carried both upbound and downbound in the course of the same voyage.

(c) *Containerized cargo* means cargo shipped in a container that is enclosed, permanent, reusable, nondisposable, weather tight.

(d) *Corporation* means the Saint Lawrence Seaway Development Corporation;

(e) *Domestic cargo* means cargo the shipment of which originates at one Canadian point and terminates at another Canadian point, or originates at one United States point and terminates at another United States point, but does

not include import or export cargo designated at the point of origin for transshipment by water at a point in Canada or in the United States;

(f) *General cargo* means other than bulk cargo, grain, government aid cargo, steel slabs and coal;

(g) *Government aid cargo* means:

(1) Processed food products that are donated by, or the purchase of which has been financed on concessional terms by, the federal government of the United States or Canada for the purposes of nutrition, economic development, emergency, or disaster relief programs; and

(2) Food cargo that is:

(i) Owned or financed by a non-profit organization or cooperative;

(ii) Intended for use in humanitarian or development assistance overseas; and

(iii) Stamped or otherwise shown to have been declared as such to that is certified by the customs service of the United States or Canada.

(h) *Grain* means barley, corn, oats, flaxseed, rapeseed, soybeans, field crop seeds, buckwheat, dried beans, dried peas, rye, wheat, grain screenings or meal from those grains;

(i) *Manager* means the St.Lawrence Seaway Management Corporation;

(j) *Metric ton* means 1,000 kilograms (2204.62 pounds);

(k) *Passenger* means any person being transported through the Seaway who has paid a fare for passage;

(l) *Pleasure craft* means a vessel, however propelled, that is used exclusively for pleasure and does not carry passengers;

(m) *Seaway* includes all facilities and services authorized under Public Law 358, 83rd Congress, May 13, 1954, enacted by the Congress of the United States, as amended, (33 U.S.C. 981, *et seq.*) and the meaning ascribed to it under the Canada Marine Act;

(n) *Vessel* (*ship* in Canada) means every type of craft used as a means of transportation on water, except a vessel owned or employed by the or the Corporation.

§ 402.4 Tolls.

(a) Every vessel entering, passing through or leaving the Seaway shall pay a toll that is the sum of each applicable charge in § 402.8. Each charge is calculated based upon the description set out in column 1 of § 402.8 and the rate set out in column 2 or 3.

(b) The toll is assessed against the vessel, its cargo and its passengers for a complete or partial transit of the Seaway and covers a single trip in one direction.

(c) The toll is due from the representative of the vessel within 45 days after the day on which the vessel enters the first lock of a transit of the Seaway.

§ 402.5 Description and weight of cargo.

For the purposes of calculating applicable tolls:

(a) A cord of pulpwood is taken to weigh 1,450 kilograms (3,196.70 pounds); and

(b) The cargo tonnage used rounded to the nearest 1,000 kilograms (2,204.62 pounds).

§ 402.6 Post-clearance date operational surcharges.

(a) Subject to paragraph (b) of this section, a vessel that reports for its final transit of the Seaway from a place set out in column 1 of § 402.9 within a period after the clearance date established by the Manager and the Corporation set out in column 2 of § 402.9 shall pay operational surcharges in the amount set out in column 3 of § 402.9, prorated on a per-lock basis.

(b) If surcharges are postponed for operational or climatic reasons, a vessel that reports for its final transit of the Seaway from a place set out in column 1 of § 402.10 within a period after the clearance date established by the Manager and the Corporation set out in column 2 of § 402.10 shall pay operational surcharges in the amount set out in column 3 of § 402.10, prorated on a per-lock basis.

(c) A vessel that is authorized to transit the Seaway after the period of 96 hours after the clearance date established by the Manager and the Corporation shall pay, in addition to the operational surcharge, an amount equal to the incremental expenses incurred by the Manager to keep the Seaway open for the transit of the vessel.

§ 402.7 Coming into force.

In Canada, this Tariff and the tolls set forth herein come into force from the date on which this Tariff is filed with the Canadian Transportation Agency.

§ 402.8 Schedule of Tolls.

Item	Column 1. Description of charges	Column 2. Rate ($) Montreal to or from Lake Ontario (5 locks)	Column 3. Rate ($) Welland Canal—Lake Ontario to or from Lake Erie (8 locks)
1.	Subject to item 3, for complete transit of the Seaway, a composite toll, comprising:		
	(1) A charge per gross registered ton of the ship, applicable whether the ship is wholly or partially laden, or is in ballast, and the gross registered tonnage being calculated according to prescribed rules for measurement in the United States or under the International Convention on Tonnage Measurement of Ships, 1969, as amended from time to time.	0.0866	0.1408.
	(2) A charge per metric ton of cargo as certified on the ship's manifest or other document, as follows:		
	(*a*) Bulk cargo	0.8984	0.5953.
	(*b*) General cargo	2.1648	0.9526.
	(*c*) Steel slab	1.9592	0.6820.
	(*d*) Containerized cargo	0.8984	0.5953.
	(*e*) Government aid cargo	n/a	n/a.
	(*f*) Grain	0.5520	0.5953.
	(*g*) Coal	0.5304	0.5953.
	(3) A charge per passenger per lock	1.2773.	1.2773
	(4) A charge per lock for transit of the Welland Canal in either direction by cargo ships:		
	(*a*) Loaded	n/a	475.42.
	(*b*) In ballast	n/a	351.26.

Item	Column 1. Description of charges	Column 2. Rate ($) Montreal to or from Lake Ontario (5 locks)	Column 3. Rate ($) Welland Canal—Lake Ontario to or from Lake Erie (8 locks)
2.	Subject to item 3, for partial transit of the Seaway	20 per cent per lock of the applicable charge under items 1(1) and (2) plus the applicable charge under items 1(3) and (4).	13 percent per lock of the applicable charge under items 1(1) and (2) plus the applicable charge under items 1(3) and (4).
3.	Minimum charge per ship per lock transited for full or partial transit of the Seaway.	15.92	15.92.
4.	A rebate applicable for the 2001 navigation season to the rates of item 1 to 3.	Rebate of 1.5%	Rebate of 1.5%.
5.	A charge per pleasure craft per lock transited for full or partial transit of the Seaway, including applicable federal taxes [1].	20.00	20.00.

[1] The applicable charge at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) is $20 U.S. or $30 Canadian per lock. The other amounts shown are in Canadian dollars and are for the Canadian share of tolls. The collection of the U.S. portion of tolls for commercial vessels is waived by law (33 U.S.C. 988a(a)).

§ 402.9 Operational surcharges—no postponements.

Item	Column 1. Place in Montreal-Lake Ontario section	Column 2. Period after clearance date	Column 3. Amount ($) (5 locks) [1]
(a)	Cape Vincent (downbound) or Cap Saint-Michel (upbound).	(*a*) 24 hours	20,000
		(*b*) 24 hours or more but less than 48 hours	40,000
		(*c*) 48 hours or more but less than 72 hours	60,000
		(*d*) 72 hours or more but less than 96 hours	80,000
(b)	Port, dock or wharf within St. Lambert-Iroquois lock segment.	(*a*) 24 hours	n/a
		(*b*) 24 hours or more but less than 48 hours	20,000
		(*c*) 48 hours or more but less than 72 hours	40,000
		(*d*) 72 hours or more but less than 96 hours	60,000

[1] Prorated on a per-lock basis.

§ 402.10 Operational Surcharges after postponements.

Item	Column 1. Place in Montreal-Lake Ontario section	Column 2. Period after clearance date	Column 3. Amount ($) (5 locks) [1]
(a)	Cape Vincent (downbound) or Cap Saint-Michel (upbound):.		
	(1) If the postponement is for 24 hours	(*a*) 24 hours or more but less than 36 hours	20,000
		(*b*) 36 hours or more but less than 48 hours	40,000
		(*c*) 48 hours or more but less than 72 hours	60,000
		(*d*) 72 hours or more but less than 96 hours	80,000
	(2) If the postponement is for 48 hours	(*a*) 48 hours or more but less than 56 hours	20,000
		(*b*) 56 hours or more but less than 64 hours	40,000
		(*c*) 64 hours or more but less than 72 hours	60,000
		(*d*) 72 hours or more but less than 96 hours	80,000
	(3) If the postponement is for 72 hours	(*a*) 72 hours or more but less than 78 hours	20,000
		(*b*) 78 hours or more but less than 84 hours	40,000
		(*c*) 84 hours or more but less than 90 hours	60,000
		(*d*) 90 hours or more but less than 96 hours	80,000
(b)	Port, dock or wharf within St. Lambert—Iroquois lock segment:		
	(1) If the postponement is for 24 hours	(*a*) 24 hours or more but less than 48 hours	n/a
		(*b*) 48 hours or more but less than 60 hours	20,000
		(*c*) 60 hours or more but less than 72 hours	40,000
		(*d*) 72 hours or more but less than 96 hours	60,000
	(2) If the postponement is for 48 hours	(*a*) 48 hours or more but less than 72 hours	n/a
		(*b*) 72 hours or more but less than 80 hours	20,000
		(*c*) 80 hours or more but less than 88 hours	40,000
		(*d*) 88 hours or more but less than 96 hours	60,000
	(3) If the postponement is for 72 hours or more	(*a*) 72 hours or more but less than 96 hours	n/a

1 Prorated on a per-lock basis.

Issued at Washington, DC, on February 5, 2001.

Saint Lawrence Seaway Development Corporation.

Marc C. Owen,

Chief Counsel.

[FR Doc. 01–3490 Filed 2–8–01; 8:45 am]

BILLING CODE 4910–61–P

Federal Register

Friday,
February 9, 2001

Part III

The President

Proclamation 7406—American Heart Month, 2001

Proclamation 7407—National Burn Awareness Week, 2001

Federal Register
Vol. 66, No. 28
Friday, February 9, 2001

Presidential Documents

Title 3—

The President

Proclamation 7406 of February 7, 2001

American Heart Month, 2001

By the President of the United States of America

A Proclamation

The year 2001 once seemed so distant that it became a symbol of science fiction. But today, researchers studying heart and other cardiovascular diseases have made 2001 a year when science rivals fiction.

Only 50 years ago, Americans were acknowledged to be suffering from an epidemic of heart disease. So little was known about the disease that it was thought part of the normal process of aging. Luck played a larger role in surviving a heart attack or hypertension than did medicine—and those who survived were forced to lead restricted lives.

But thanks to scientific advances and education, the death rate from coronary heart disease has fallen by nearly 60 percent since its peak in the mid-1960s. This startling improvement resulted not only from advances in the treatment of heart disease but also from gains in knowledge about its prevention. Scientists also have opened up new fields, including that of gene research. Their work promises to bring great improvements in the prevention and treatment of heart disease.

But problems remain. In particular, how can the rewards of scientific advances be brought to all Americans? Racial, ethnic, and geographic gaps still exist in the burden of disease. The number one killer of women is cardiovascular disease.

Another challenge is the increase in certain conditions and heart disease risk factors. Obesity and physical inactivity pose still other problems. More than half of American adults are overweight and obese, about one in four are sedentary, and another third are not active enough to reach a healthy level of fitness.

Meeting such challenges takes both will and technology. For example, researchers recently found that small changes in lifestyle that boost moderate-level physical activity can protect cardiorespiratory fitness and blood pressure as much as a structured exercise program. These are changes that all Americans can adopt.

Sudden death from cardiac arrest has also been a major health threat. Yet fortunately, more Americans are learning the warning signs of cardiac arrest. Calling 9–1–1 immediately and administering cardiopulmonary resuscitation (CPR) until an electric shock to the heart can be given to restore a normal heartbeat—a practice known as defibrillation—combined with early advanced care can result in long-term survival rates as high as 40 percent for certain types of cardiac arrest.

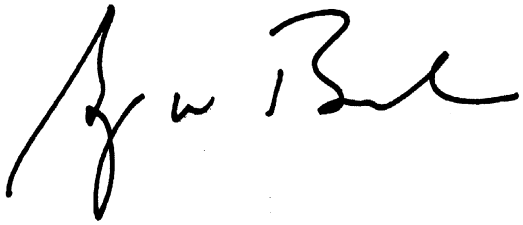
The Federal Government seeks to improve Americans' heart health by supporting research and public education through its National Heart, Lung, and Blood Institute, part of the National Institutes of Health. The American Heart Association, through its research and education programs and its vital network of dedicated volunteers, also plays a crucial role in bringing about much-needed advances.

Americans have always believed in the power of science to improve lives, and it is their support and the use of scientific advances that has reduced the epidemic of heart disease. It will be through continued scientific efforts that we find even more answers and reduce the rate of heart disease even further.

In recognition of the importance of the ongoing fight against cardiovascular disease, the Congress, by Joint Resolution approved December 30, 1963 (77 Stat. 843; 36 U.S.C 101) has requested that the President issue an annual proclamation designating February as ''American Heart Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim the month of February 2001 as American Heart Month. I invite the Governors of the States, the Commonwealth of Puerto Rico, officials of other areas subject to the jurisdiction of the United States, and the American people to join me in reaffirming our commitment to combating cardiovascular disease.

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



[FR Doc. 01–3588
Filed 2–8–01; 11:50 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7407 of February 7, 2001

National Burn Awareness Week, 2001

By the President of the United States of America

A Proclamation

Burn injuries are a serious problem in the United States. Each year, over 3,000 people die and 16,000 are injured by fires that start in the home. These fires cost the Nation over $18 billion. Tragically, children, the elderly, and persons with disabilities are those most likely to become victims of serious burns. Children are particularly vulnerable. Each year, about 800 children under the age of 15 die of fire-related causes and about 500 of these deaths are to children under the age of 5 years. In fact, children under age 5 have a death rate from fire more than twice the national average.

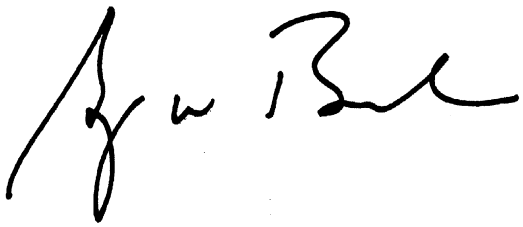
All Americans can make their homes safer by making sure they have a working smoke alarm. About 90 percent of U.S. households have smoke alarms. However, a recent survey found that smoke alarms in 20 percent of those households—about 16 million—were not working, mostly because the battery was dead or missing. Those families who have not yet done so should place a smoke alarm inside each sleeping room and on each level of a multi- story home and make sure the alarms are tested monthly and the batteries are replaced when necessary.

We should also learn what to do in the event of fire, including the ''stop, drop, and roll'' maneuver that can help prevent serious burn injuries. Those families that have not yet done so should make plans for escaping a house fire—and every American family should review and practice the plan regularly.

The U.S. Consumer Product Safety Commission (CPSC) helps to keep children and families safe from products that pose fire dangers. CPSC activities have contributed to a decline in fires and fire deaths over the past several years. For example, CPSC's standard for child-resistant lighters has helped reduce fire deaths from children playing with lighters by 43 percent since 1994.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States of America, do hereby proclaim February 4 through February 10, 2001, as National Burn Awareness Week. I call upon all Americans to observe this week by participating in appropriate ceremonies and activities and by learning how to prevent burn injuries, especially to children.

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



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